VOLUME 5

CONTENTS

Page
Discharging Matters From Committees (Ch 18) 1
The Committee of the Whole (Ch 19) 39
Calls of the House; Quorums (Ch 20) 287

H920-6

94th Congress, 2d Session - - - - - - - - - - - House Document No. 94-661

DESCHLER'S PRECEDENTS

OF THE

United States
House of Representatives

INCLUDING REFERENCES TO PROVISIONS
OF THE CONSTITUTION AND LAWS, AND
TO DECISIONS OF THE COURTS

By
LEWIS DESCHLER, J.D., D.J., M.P.L., LL.D.
Parliamentarian of the House,
1928–1974

VOLUME 5

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

CONTENTS—Volume 5

Ch. 18. Discharging Matters From Committees (p. 1)

- § 1. In General; Motion to Discharge
- § 2. Discharging Particular Committees
- § 3. Calling Up Motion; Debate
- § 4. Consideration of Discharged Measures
- § 5. Discharge of Vetoed Bills, Other Questions Privileged Under the Constitution, Resolutions of Inquiry, and Reorganization Plans
- Appendix—Recent History of Discharge Motions

Ch. 19. The Committee of the Whole (p. 39)

A. IN GENERAL (p. 49)

- § 1. Jurisdiction; House as in Committee of the Whole Distinguished
- § 2. Motions and Requests Generally
- § 3. Remarks in the Congressional Record
- § 4. Resolving Into Committee of the Whole

B. THE CHAIRMAN (p. 82)

- § 5. Speaker's Appointment of Chairman
- § 6. Chairman's Role; Jurisdiction
- § 7. —Limitations on the Chairman's Jurisdiction
- § 8. —Rulings Relating to Amendments
- § 9. —Appeals of Rulings

C. MOTION TO RECOMMEND STRIKING ENACTING CLAUSE (p. 133)

- § 10. Generally
- § 11. When in Order
- § 12. Procedures; Qualification to Offer or Oppose
- § 13. Debate
- § 14. Renewal of Motion

D. CONSIDERATION AND DEBATE (p. 190)

- § 15. Generally
- § 16. Time Limitations
- § 17. Calling Members to Order
- § 18. Reading Papers

E. POINTS OF ORDER (p. 224)

- § 19. Generally
- § 20. Timeliness

F. RISING OF THE COMMITTEE OF THE WHOLE (p. 251)

§ 21. Generally
§ 22. Motions to Rise
§ 23. —When in Order
§ 24. —Offering the Motion
§ 25. —Proceedings Subsequent to Action on Motion
§ 26. Resumption of Business After Committee Resumes Sitting

Ch. 20. Calls of the House; Quorums (p. 287)

A. CALLS OF THE HOUSE (p. 295)

§ 1. In General; Scope
§ 2. Calls Ordered on Motions; Automatic Calls
§ 3. The Chair's Count; Names Included on Calls
§ 4. Calls by Electronic Device; Time Allowed for Attendance
§ 5. Securing Attendance; Arrests
§ 6. Closing or Locking the Doors
§ 7. The Call in the Committee of the Whole
§ 8. Motions During the Call—To Adjourn
§ 9. —To Dispense With Further Proceedings Under the Call

B. EFFECT OF PRESENCE OR ABSENCE OF A QUORUM (p. 434)

§ 10. Introductory
§ 11. As Related to the Journal
§ 12. As Related to Prayer by the Chaplain and Messages

C. OBJECTIONS TO ABSENCE OF A QUORUM; POINTS OF NO QUORUM (p. 463)

§ 13. In General; Timeliness and Diligence
§ 14. Dilatoriness; Effect of Prior Count
§ 15. Proceedings Pending Call of House in Absence of Quorum
§ 16. In the Committee of the Whole
§ 17. Absence of Quorum in Standing Committee as Bar to Floor Consideration or Other Subsequent Proceedings
§ 18. Withdrawal or Withholding of Objections or Points of No Quorum

TABLE OF ABBREVIATIONS AND TERMS

A. (or A.2d)	Atlantic Reporter
ad hoc	For a particular purpose or end
A.L.R.	American Law Reports Annotated
Am Jur	American Jurisprudence
amend.	Amendment to the Constitution
Annals of Cong.	Annals of Congress (1789–1824)
App. D.C.	Appeal Cases, District of Columbia
App. Div.	Appellate Division
art.	Article of the Constitution
C.A.	Court of Appeals
Cert.	Certiorari
cf.	Compare with
CFR	Code of Federal Regulations
Ch.	Chapter
Cir.	Circuit Court of Appeals (federal)
Cir. Ct. App.	Circuit Court of Appeals (state)
cl.	clause
Comm.	Committee
Cong.	Congress
Cong. Deb.	Congressional Debates (1824–1837)
Cong. Globe	Congressional Globe (1833–1873)
Cong. Rec.	Congressional Record
contra	Contradictory authority
Crim. App.	Court of Criminal Appeals
Ct. Cl.	Court of Claims
D.	District Court (federal)
daily ed.	Daily edition of Record
e.g.	For example
et al.	Omission of party in case name
et seq.	And the following
ex rel.	On the relation of . . .
Exec. Comm.	Executive Communication
F (or F2d)	Federal Reporter
FCA	Federal Code Annotated
Fed. Reg.	Federal Register
FRD	Federal Rules Decisions
F Supp	Federal Supplement
H. Con. Res.	House Concurrent Resolution
H. Doc.	House Document
H.J. Res.	House Joint Resolution
H. Jour.	House Journal
H.R.	House Bill
H. Rept.	House Report
H. Res.	House Resolution
Id.	Citation to same authority as in immediately preceding citation
i.e.	That is

TABLE OF ABBREVIATIONS AND TERMS

In re	In the matter of . . .
infra	Subsequent section or chapter
inter alia	Among others
L.Ed. (or L.Ed2d)	Lawyers' Edition, U.S. Supreme Court Reports
L.J.	Law Journal
L. Rev.	Law Review
Mem.	Disposition of case without opinion
N.E. (or N.E.2d)	North Eastern Reporter
N.W. (or N.W.2d)	North Western Reporter
Op. Att'y Gen.	Attorney General's Opinions
P. (or P.2d)	Pacific Reporter
Per Curiam	Disposition of case with short opinion
Priv. L.	Private Law
Pub. L.	Uncodified Statute or Session Law
S.	Senate Bill
S. Con. Res.	Senate Concurrent Resolution
S. Ct.	Supreme Court Reporter
S. Doc.	Senate Document
S.E. (or S.E.2d)	South Eastern Reporter
Sess.	Session
Sic	Mistake in original of quoted material
S.J. Res.	Senate Joint Resolution
S. Jour.	Senate Journal
S. Rept.	Senate Report
S. Res.	Senate Resolution
So. (or So.2d)	Southern Reporter
Stat.	Statutes at large
Sup. Ct.	Supreme Court
supra	Prior section or chapter
S.W. (or S.W.2d)	South Western Reporter
U.S.	United States Supreme Court Reports
USC (or USCA)	United States Code (or United States Code Annotated)
U.S. Code Cong. & Ad. News	United States Code Congressional and Administrative News
U.S. Const.	United States Constitution
U.S.L.W.	United States Law Week

CHAPTER 18

Discharging Matters From Committees

§ 1. In General; Motion to Discharge
§ 2. Discharging Particular Committees
§ 3. Calling Up Motion; Debate
§ 4. Consideration of Discharged Measures
§ 5. Discharge of Vetoed Bills, Other Questions Privileged Under the Constitution, Resolutions of Inquiry, and Reorganization Plans
Appendix—Recent History of Discharge Motions

INDEX TO PRECEDENTS

Business preceding introduction of discharge motions, § 3.8
Calling up motion to discharge
  after seven legislative days, § 3.1
  by signatory, § 3.6
  during the last six days of a session, § 3.3
  on second and fourth Mondays, § 3.2
Committee of the Whole, consideration of discharged measure in, §§ 4.4, 4.5
Committee on Rules, consideration of resolutions discharged from, §§ 4.1, 4.2
Committees, consideration of bills and resolutions discharged from, § 4.3
Committees, discharge of
  Committee on Agriculture, § 2.1
  Committee on Banking and Currency, § 2.2
  Committee on the Judiciary, § 2.3
  Committee on Rules, §§ 2.4–2.6
  Committee on Ways and Means, § 2.7
Debate on discharged bills, § 4.5
Discharge rule, 21-day rule distinguished from, § 1.12
Discharged bills
  motion to consider, § 4.3
  referral of, § 4.7
Discharged resolutions
  consideration of, § 4.1
  motions to table, § 4.2
Extensions of remarks
  during consideration of discharge motions, § 3.16
Motion to consider discharged bills, § 4.3
Motion to discharge committee
  adoption of, §§ 2.1–2.4, 2.7
  announcing filing of, § 1.1
  application of, to reported bills, § 1.11
  effect of inter-session adjournment on, § 1.10

Commentary and editing by John Graham, J.D.

Motion to discharge committee—Con.
  intervening motions during debate on, §§ 3.14, 3.15
  names on petition, revealing, § 1.7
  placement of, on calendar, § 1.9
  precedence of, over unfinished business, § 3.4
  quorum call preceding call of, § 3.7
  rejection of, § 2.5
  report, committee, as affecting disposition of motion, § 1.13
  report, committee, question as to validity of § 1.13
  signatures on, §§ 1.2–1.6
  withdrawal of, after filing, § 1.8
Motion to discharge resolutions disapproving reorganization plans
  debate on, §§ 5.6, 5.7
  offering of, § 5.5
  unanimous-consent agreement to, § 5.8
Motion to discharge resolutions of inquiry, privilege of, §§ 5.2, 5.3
Motion to discharge vetoed bills, privilege of, § 5.1
Motion to postpone consideration of discharge motions, § 3.14
Motion to table discharge motions, § 3.15
Motion to table discharged resolutions, § 4.2
Reorganization plans
  debate incident to discharge of, §§ 5.6, 5.7
  discharge of, by unanimous consent, § 5.8
  moving the discharge of, § 5.5
Resolutions of inquiry
  debate on, following discharge, § 5.4
  discharge of, §§ 5.2, 5.3
Vetoed bills, discharge of, § 5.1

Discharging Matters From Committees

§ 1. In General; Motion to Discharge

The House, by rule, has made provisions for discharging matters from committees. Under Rule XXVII clause 4,(1) a Member may file with the Clerk a motion to discharge a committee from the consideration of a public bill or resolution referred to it 30 legislative days prior thereto. The rule may also be invoked to discharge a resolution pending in the Committee on Rules for more than seven legislative days providing for consideration of a measure favorably reported by a standing committee or pending before such committee for 30 legislative days.(2)

The primary purpose of the discharge petition is to extract from a committee, for House action, legislation opposed by a majority of the committee members or where a committee fails to act.

The motion must be in writing and signed by a majority of the Members, and this has been interpreted to mean that the motion requires the signatures of 218 Members of the House.(3) Delegates may not sign a discharge petition. The signatures on the motion may not be made public until the requisite number of Members have signed it.(4) The death or resignation of a signatory of the motion does not invalidate his signature,(5) but for a Member elected in a special election to fill a vacancy to sign a petition, the signature of his predecessor must be removed.(6)

When the requisite number of signatures are obtained, the motion is entered on the Journal, printed with the signatures thereto in the *Congressional Record*, and referred to the Calendar of Motions to Discharge Committees.(7) A reported bill is no longer susceptible to the motion, though reported in the interval between completed signing

---

1. *House Rules and Manual* § 908 (1979).
2. See §§ 2.4, 2.5, infra.
3. See §§ 1.2, 1.3, infra. The requirement of "a majority of Members" was placed in the discharge rule in the 69th Congress. Prior to that time, fewer signatures had been required on a discharge petition. For the history of the rule, see 7 Cannon's Precedents § 1007.
4. See § 1.7, infra.
5. See § 1.5, infra.
6. See § 1.4, infra.
7. See § 1.9, infra.

of the petition and the calling up of the motion.[8]

See Chapter 21 (Order of Business; Special Orders), § 16, for discussion on discharge by the Committee on Rules.

Announcement of Filing of Motion

§ 1.1 A Member sometimes announces to the House the filing, pursuant to Rule XXVII clause 4, of a motion to discharge a committee.

On June 17, 1952,[9] Mr. Paul W. Shafer, of Michigan, announced to the House his filing with the Clerk of a motion to discharge the Committee on the Judiciary from further consideration of a resolution proposing the impeachment of the President.

Signatures on Motion

§ 1.2 A motion to discharge a committee from the further consideration of a bill was held to require the signatures of 218 Members of the House.

On Apr. 15, 1936,[10] the Speaker[11] responded to a parliamentary inquiry of Mr. Gerald J. Boileau, of Wisconsin, relative to the number of signatures necessary to effectuate a petition under the discharge rule of the House:

> . . . [T]he Chair is constrained to hold that under the "discharge rule" of the House, requiring "a majority of the total membership of the House", the exact number of 218 Members was intended, and is necessary before a discharge petition is effective, and no less number will suffice, irrespective of temporary vacancies due to death, resignation, or other causes.

§ 1.3 The motion to discharge a pay raise bill was signed by the required number of Members.

On June 3, 1960,[12] the following proceedings occurred:

> MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, a parliamentary inquiry.

---

[8] See § 1.13, infra.

A motion to discharge a committee from further consideration of a bill or resolution operates, when agreed to, upon the bill or resolution as originally referred to the committee rather than as it may have been amended in the committee before the committee acted upon it adversely. 75 CONG. REC. 4705, 72d Cong 1st Sess., Feb. 25, 1932.

[9] 98 CONG. REC. 7424, 82d Cong. 2d Sess.

[10] 80 CONG. REC. 5509, 5510, 74th Cong. 2d Sess.

[11] Joseph W. Byrns (Tenn.).

[12] 106 CONG. REC. 11837, 86th Cong. 2d Sess.

THE SPEAKER PRO TEMPORE:(13) The gentleman will state it.

MR. McCORMACK: My inquiry is whether or not the discharge petition on the pay raise bill has received the required number of signatures, to wit, 219.

THE SPEAKER PRO TEMPORE: According to the Journal clerk the 219 signatures have been obtained.

Parliamentarian's Note: In the 86th Congress, the total membership of the House was 436 due to the election for the first time of a Representative from the newly admitted State of Alaska.

§ 1.4 The death of a Member who had signed a discharge petition does not invalidate the signature, and such signature stands as the legislative act of such deceased Member unless withdrawn by his successor.

On May 31, 1934,(14) Mr. Donald H. McLean, of New Jersey, attempted to sign a discharge petition when he was informed that, since a requisite number of Members (145) had already signed, additional signatures could not be affixed. Since one of the signatures on the petition was of a Member recently deceased (Mr. George F. Brumm, of Pennsylvania), Mr. McLean asked Speaker Henry T. Rainey, of Illinois, if the signature of the deceased was valid. The following colloquy then took place:

> MR. McLEAN: I understand that one of the signers was that of the late Representative Brumm, of Pennsylvania, who died a few days ago. There is a question as to the effectiveness of his signature, and the question of the effectiveness of his signature is proper for consideration at this time.
>
> THE SPEAKER: Under the rule no signature can be withdrawn except by the Member himself.
>
> MR. McLEAN: Does the Chair rule that the signature of Mr. Brumm must stand?
>
> THE SPEAKER: The signature can only be removed by the Member, by Mr. Brumm himself, as a Representative of the Thirteenth District of Pennsylvania. When his successor is elected, in all probability his successor would have that right.
>
> MR. McLEAN: Then, Mr. Speaker, I understand that without my signature the petition is effective?
>
> THE SPEAKER: The gentleman is correct, 145 names being now properly on it.

§ 1.5 Where a motion to discharge a committee had been signed by a former Member, his successor, desiring to sign his own

---

13. Francis E. Walter (Pa.).

14. 78 CONG. REC. 10159, 73d Cong. 2d Sess. In the 72d and 73d Congresses, only 145 signatures were required. See 7 Cannon's Precedents § 1007.

name, by unanimous consent had his predecessor's name removed.

On Jan. 16, 1950,(15) the following colloquy occurred:

> MR. [JOHN F.] SHELLEY [of California]: Mr. Speaker, my predecessor, the Honorable Richard J. Welch, signed Discharge Petition No. 15. I desire to have my name entered on this petition. I ask unanimous consent that his name be taken off the petition so that I may sign it.
>
> THE SPEAKER:(16) Is there objection to the request of the gentleman from California?
>
> There was no objection.

Parliamentarian's Note: Under the current practice, a Member elected to fill a vacancy may remove the name of his predecessor in order to affix his own name.

§ 1.6 Where the name of a Member has been inadvertently removed from a discharge petition as printed in the Record, it may again be placed thereon by unanimous consent.

On Apr. 18, 1946,(17) Mr. Lyndon B. Johnson, of Texas, propounded a unanimous-consent request:

> Mr. Speaker, in the Record of yesterday, April 17, the Members who signed discharge petition No. 20 have their names printed. I signed the petition, and my name appeared as the one hundred and ninetieth signature. The Journal clerk has informed me that through some error at the desk my name was eliminated. I ask unanimous consent that my name be restored to the petition and be printed in the permanent Record.

There was no objection to the request.

Examination of Petition

§ 1.7 While a Member has the right to examine a discharge petition, he does not have the right to read to the House the names signed on such petition.

On Mar. 15, 1946,(18) a point of order was raised against the request of Mr. John E. Rankin, of Mississippi, that the Clerk provide him with a discharge petition on the Clerk's desk:

> MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, a point of order.

---

(15) 96 CONG. REC. 436, 81st Cong. 2d Sess. For further examples, see: 94 CONG. REC. 1993, 2001, 80th Cong. 2d Sess., Mar. 3, 1948; 92 CONG. REC. 10464–91, 79th Cong. 2d Sess., July 30, 1946; and 92 CONG. REC. 1968, 79th Cong. 2d Sess., Mar. 5, 1946.

(16) Sam Rayburn (Tex.).

(17) CONG. REC. (daily ed.), 79th Cong. 2d Sess.

(18) 92 CONG. REC. 2329, 79th Cong. 2d Sess.

THE SPEAKER:(19) The gentleman will state it.

MR. COCHRAN: As I understand the rules of the House, it is not permissible to give out anything contained in a petition on the Clerk's desk until the petition has the required number of signers. Then it automatically is printed in the Record with the signatures thereon.

THE SPEAKER: It is certainly a violation of the rules to do that.

MR. RANKIN: I have not given out anything. Do not get excited. I merely asked for the petition. I have a right to look at it, as a Member of the House.

THE SPEAKER: The gentleman has the right to look at it but he does not have the right to read any of the names on the petition.

Parliamentarian's Note: Only Members may examine the petition in the custody of the Journal clerk, while the House is in session, and they may not reveal the names of Members who have signed or not signed.

Withdrawal of Petition

§ 1.8 By unanimous consent, a discharge petition filed with the Clerk has been withdrawn.

On Mar. 28, 1939,(20) Mr. Hamilton Fish, Jr., of New York, asked for unanimous consent to withdraw a motion to discharge the Committee on Rules filed with the Clerk on a previous day. There was no objection to the request.

Placing Motions on Calendar

§ 1.9 Motions to discharge committees are placed on the calendar when they receive the requisite number of signatures.

On Apr. 30, 1936,(21) Mr. Gerald J. Boileau, of Wisconsin, propounded a parliamentary inquiry as follows:

MR. BOILEAU: I am advised by the Clerk that 218 Members have signed the petition to discharge the Rules Committee from further consideration of the resolution bringing up the Frazier-Lemke bill for consideration on the floor. May I ask the Speaker whether or not the petition is now completed and the matter on the calendar?

THE SPEAKER:(22) The motion is now on the calendar under the rules of the House.

Effect of Inter-session Adjournment

§ 1.10 A discharge petition on the Clerk's desk awaiting signatures

---

19. Sam Rayburn (Tex.).

20. 84 CONG. REC. 3461, 76th Cong. 1st Sess.

21. 80 CONG. REC. 6464, 74th Cong. 2d Sess. For a further illustration see 82 CONG. REC. 1517, 75th Cong. 2d Sess., Dec. 14, 1937.

22. Joseph W. Byrns (Tenn.).

carries over from session to session in the same Congress.

On Dec. 19, 1945,⁽¹⁾ during House debate incident to the consideration of a House joint resolution⁽²⁾ changing the date of meeting of the second session of the current Congress, Mr. John H. Folger, of North Carolina, addressed an inquiry to the Chair as follows:

> Mr. Folger: I have a discharge petition on the desk, No. 10, in which I am very, very much interested. I have no objection to this adjournment until the 14th [of January, 1946] unless I have to go back and get that signed anew. Will that carry over?
>
> The Speaker:⁽³⁾ It will carry over.
>
> Mr. Folger: If it will I am all right.
>
> The Speaker: Everything remains on the calendar just as it is now.

Bills Reported After Motion Has Been Placed on Calendar

§ 1.11 The motion to discharge a committee from the further consideration of a bill does not apply to a bill that has been reported by a committee during the interval between the placing of the motion to discharge on the calendar and the day when such motion is called up for action in the House.

On Aug. 5, 1949,⁽⁴⁾ the Committee on Post Office and Civil Service reported a bill⁽⁵⁾ thus rendering ineffective a previously calendared motion to discharge the committee from further consideration of the bill.⁽⁶⁾

Parliamentarian's Note: A motion to discharge the Committee on Rules from further consideration of a resolution⁽⁷⁾ making this bill a special order of business was subsequently signed by the requisite number of Members.⁽⁸⁾ This resolution was reported by the Committee on Rules on Sept. 27, 1949,⁽⁹⁾ before

---

1. 91 Cong. Rec. 12346, 79th Cong. 1st Sess.
2. H.J. Res. 294.
3. Sam Rayburn (Tex.).
4. 95 Cong. Rec. 10878, 81st Cong. 1st Sess.
5. H.R. 4495, providing additional benefits for certain postmasters, officers, and employees in the postal field service.
6. See 95 Cong. Rec. 9966, 81st Cong. 1st Sess., July 21, 1949, where the motion to discharge the Committee on Post Office and Civil Service received the requisite number of signatures.
7. H. Res. 319.
8. See 95 Cong. Rec. 12103, 81st Cong. 1st Sess., Aug. 23, 1949, where the motion to discharge the Committee on Rules received the requisite number of signatures.
9. 95 Cong. Rec. 13365, 81st Cong. 1st Sess.

the motion could be called up for action in the House.

21-day Rule Distinguished

§ 1.12 The discharge rule authorizes the use of the motion against the Committee on Rules in a proper case. However, the so-called "21-day" rule, which was in effect in the 89th Congress, whereby resolutions pending before the Committee on Rules could be called up for consideration, on discharge calendar days, was held to be unrelated to the motion to discharge under Rule XXVII.

On Sept. 13, 1965,(10) after a House Resolution(11) was called up pursuant to Rule XI clause 23 (the 21-day rule), a point of order was raised by Mr. Durward G. Hall, of Missouri:

> MR. HALL: Mr. Speaker, I make a point of order against the consideration of this bill by the House based on clause 4 of rule 27, the last line in section 908, the second paragraph, says:
>
> > Recognition for the motions shall be in the order in which they have been entered on the Journal.

Responding to the point of order, the Speaker(12) said:

> The Chair will state that the gentleman is talking about an entirely different rule than is the situation now. . . .
>
> The Chair would advise the gentleman from Missouri that the House is operating under Rule XI clause 23.

Validity of Committee Report as Affecting Eligibility for Discharge

§ 1.13 Where the House had laid on the table a resolution presented as a question involving the privileges of the House challenging the validity of a committee's action in reporting a bill, the Chair overruled a point of order that the bill was not properly before the House because it had not been read in committee prior to reporting. The discharge rule does not apply to a bill that has been reported by a committee during the interval between the placing of a completed motion to discharge on the calendar and the day when such motion is called up in the House.

On Apr. 23, 1934,(13) the Committee on Banking and Currency reported a bill, H.R. 7908,(14) for

---

(10) 111 CONG. REC. 23618, 89th Cong. 1st Sess.

(11) H. Res. 478, providing for consideration of a bill, H.R. 9460, establishing a national foundation on the arts.

(12) John W. McCormack (Mass.).

(13) 78 CONG. REC. 7151–61, 73d Cong. 2d Sess.

(14) The bill concerned payments of assets in closed banks.

The Committee on Banking and Currency had first reported this bill on Apr. 12. The motion to discharge which a motion to discharge was pending on the Calendar of Motions to Discharge Committees. Despite the reporting of the measure by the Committee on Banking and Currency, Mr. Clarence J. McLeod, of Michigan, attempted to call up the motion to discharge the committee on H.R. 7908. It developed in the debate that Mr. McLeod and Mr. Jesse P. Wolcott, of Michigan, viewed the reporting of the bill by the committee as void *ab initio* on the grounds that the committee ordered the reporting of the measure at a time when it sat during a session of the House without the permission of the House and also because the measure reported was not read before the committee. In fact, argued the proponents of the discharge motion, the bill that was reported by the committee was a committee substitute, the text of the bill H.R. 9175, which the committee had inserted after striking all after the enacting clause of the original bill which had been the subject of the discharge petition signed by the requisite number of Members.(15)

After the Speaker(16) sustained a point of order against the calling up of the motion to discharge the committee, on the basis that "inasmuch as the Committee on Banking and Currency has reported the bill, that the effect of that action nullifies the motion to discharge and makes it inoperative,"(17) Mr. Carroll L. Beedy, of Maine, raised a point of order against the bill as reported by the committee because it had never been read for amendment in the committee and was, he argued, not regularly before the House. Mr. Beedy stated:

> Mr. Speaker, I make the point of order that the amendment to the McLeod bill, so called, was not introduced in the House until the 17th of April subsequent to the time when any bill

---

the committee received the requisite number of signatures on Apr. 13. On Apr. 20, by direction of the Speaker, the Committee of the Whole House on the state of the Union was discharged from further consideration of the bill; the Speaker held that the purported report on said bill was invalid in that the Committee on Banking and Currency had ordered the report made while the House was in session and that therefore the bill was still with the committee. The bill was again reported by the Committee on Banking and Currency on Apr. 23, as indicated above.

15. At that time, only 145 signatures were required on a discharge petition. Rule XXVII clause 4, House rules (1934).

16. Henry T. Rainey (Ill.).

17. 78 Cong. Rec. 7161, 73d Cong. 2d Sess., Apr. 23, 1934.

of the kind was ever read for amendment in the committee. This fact is undenied.

The bill that was reported never was read for amendment in the committee. It is not legally or validly upon the calendar of the House. While the decision of the Chair well presents the fact, assuming that the bill were legally before the House, the Chair has not touched upon the question as to whether it may be in order to call up the discharge rule if the bill attempted to be reported by the committee concerned was not regularly before the House, not having been considered according to the rules of the House.

Mr. Speaker, I make the point of order, therefore, that the bill alleged to have been reported is not legally reported, is in violation of the rules of the House and of the committees of the House, and has no valid standing in the House.

In overruling the point of order, the Speaker advised that he had no knowledge as to what had occurred in committee, stating:

The Speaker: The House passed on that question a few moments ago in a resolution raising the question of the privileges of the House, and passed upon the question adversely to the position taken by the gentleman from Maine.

The Chair has no information as to what occurred in the committee. The only thing the Chair knows is that the McLeod bill, bearing the number it has always borne and with the same title, and with some amendments in which the Chair is not interested, has been reported out, is on the calendar, and can be taken up under the general rules of the House when an opportunity presents itself.

The Chair overrules the point of order.(18)

---

18. *Id.*

Immediately prior to the calling up of the motion to discharge, the validity of the actions taken by the Committee on Banking and Currency leading up to the reporting of the bill on Apr. 23 had been called to the attention of the House. Mr. Beedy had submitted as a question of the privileges of the House a resolution, H. Res. 349, questioning whether the House should receive the report. The resolution stated certain events which occurred in the committee on Apr. 21 which were not in accordance with the rules of the House. Mr. John E. Rankin (Miss.) had made a point of order that the resolution did not present a question of the privileges of the House. Mr. Thomas L. Blanton (Tex.) made the further point of order that the resolution was an attempt to impeach the actions of the committee. The Speaker held that the resolution did present a question of privilege. The resolution was then laid on the table without debate.

An appeal from the Speaker's ruling was laid on the table.(19)

Parliamentarian's Note: The point of order in the preceding precedent is probably based upon § 412 of Jefferson's Manual, which had been mentioned earlier in the debate as requiring a reading for amendment of a bill in committee.

§ 2. Discharging Particular Committees

Committee on Agriculture

§ 2.1 The House has agreed to a motion to discharge the Committee on Agriculture from further consideration of a bill.

On Apr. 26, 1948,(20) Mr. L. Mendel Rivers, of South Carolina, called up, pursuant to Rule XXVII clause 4, the motion to discharge the Committee on Agriculture from further consideration of a bill(21) repealing the tax on oleomargarine. Debate on the motion ensued, at the conclusion of which, the motion was agreed to—yeas 235, nays 121.

Committee on Banking and Currency

§ 2.2 The House has agreed to a motion to discharge the Committee on Banking and Currency from further consideration of a bill.

On Dec. 13, 1943,(22) Mr. Wesley E. Disney, of Oklahoma, called up, pursuant to Rule XXVII clause 4, a motion to discharge the Committee on Banking and Currency from further consideration of a bill(23) transferring certain price administration functions with respect to petroleum and petroleum products to the Petroleum Administrator for War. Following debate, the motion was agreed to—yeas 247, nays 71, not voting 111.

Committee on the Judiciary

§ 2.3 The House has agreed to a motion to discharge the Committee on the Judiciary from further consideration of a joint resolution proposing an amendment to the Constitution.

On Nov. 8, 1971,(24) Mr. Chalmers P. Wylie, of Ohio, called up,

---

19. See H. Jour. 431, 73d Cong. 2d Sess., Apr. 23, 1934.
20. 94 Cong. Rec. 4835–41, 80th Cong. 2d Sess. See 94 Cong. Rec. 4078, 80th Cong. 2d Sess., Apr. 2, 1948, where the motion to discharge the Committee on Agriculture received the requisite number of signatures.
21. H.R. 2245.
22. 89 Cong. Rec. 10605, 10607, 10608, 78th Cong. 1st Sess.
23. H.R. 2887.
24. 117 Cong. Rec. 39885–89, 92d Cong. 1st Sess. For a further example, see 116 Cong. Rec. 27999, 28004, 91st Cong. 2d Sess., Aug. 10,

pursuant to Rule XXVII clause 4, a motion to discharge the Committee on the Judiciary from further consideration of a House joint resolution[25] proposing an amendment to the U.S. Constitution relative to the offering of prayer in public buildings. Following some debate, the motion was agreed to—yeas 242, nays 156, not voting 33.

Committee on Rules

§ 2.4 On several occasions, the House has agreed to a motion to discharge the Committee on Rules from further consideration of a resolution making in order consideration of a bill.

On Sept. 27, 1965,[26] Mr. Abraham J. Multer, of New York, called up, pursuant to Rule XXVII clause 4, a motion to discharge the Committee on Rules from further consideration of a resolution[27] making in order a "home rule" bill[28] pending before the Committee on the District of Columbia. Following debate, the motion was agreed to—yeas 213, nays 183, not voting 36.

§ 2.5 The House refused to discharge the Committee on Rules from further consideration of a resolution making in order consideration of a House joint resolution.

On Jan. 10, 1938,[29] Mr. Louis Ludlow, of Indiana, called up, pursuant to Rule XXVII clause 4, a motion to discharge the Commit-

---

1970, where the Committee on the Judiciary was discharged from further consideration of H.J. Res. 264, proposing an amendment to the Constitution relative to equal rights for men and women.

[25] H.J. Res. 191.

[26] 111 Cong. Rec. 25180–85, 89th Cong. 1st. Sess. See also 111 Cong. Rec. 22900, 89th Cong. 1st Sess., Sept. 3, 1965, where the motion to discharge the Committee on Rules received the requisite number of signatures. For additional examples see 106 Cong. Rec. 12691, 12720, 86th Cong. 2d Sess., June 15, 1960, where the Committee on Rules was discharged from further consideration of a resolution, H. Res. 537, providing for the consideration of the bill H.R. 9883, adjusting rates of compensation for officers and employees of the federal government, and 103 Cong. Rec. 12332, 12334, 12335, 85th Cong. 1st Sess., July 22, 1957, where the Committee on Rules was discharged from further consideration of a resolution, H. Res. 249, providing for the consideration of the bill, H.R. 2474, increasing rates of basic compensation of officers and employees in the field service of the Post Office Department.

[27] H. Res. 515.

[28] H.R. 4644.

[29] 83 Cong. Rec. 276–282, 75th Cong. 3d Sess.

tee on Rules from further consideration of a resolution[1] making in order consideration of a House joint resolution[2] proposing an amendment to the U.S. Constitution requiring a referendum on war. After debate on the motion to discharge, the motion was rejected—yeas 188, nays 209.

§ 2.6 The Committee on Rules, under Rule XXVII clause 4, may not be discharged from the further consideration of a resolution providing for the appointment of a committee to investigate.

On Apr. 23, 1934,[3] Speaker Henry T. Rainey, of Illinois, responded to a parliamentary inquiry relating to the applicability of the discharge rule to certain types of resolutions, described below, under consideration in the Committee on Rules. Finding that the language of the discharge rule,[4] which was specific in nature, did not expressly permit motions to discharge the Committee on Rules from consideration of the kind of resolution in question, the Speaker indicated such a motion would not be in order. The proceedings were as follows:

Mr. [Oscar] De Priest [of Illinois]: . . . On the 24th day of January I filed a resolution in the House. At the expiration of 30 legislative days I prepared a petition to discharge the committee, and laid it on the desk. I subsequently received the necessary 145 signatures on the 23d day of March. After that the Committee on Rules reported the bill out favorably, and I am glad they did. Under the ruling of the Chair today, if my interpretation is correct, it is impossible to call up this resolution on the Discharge Calendar? . . .

Mr. [John J.] O'Connor [of New York]: . . . The gentlemen from Illinois [Mr. De Priest] introduced a resolution which was referred to the Rules Committee. It could not have been first referred to any other committee, because that resolution provided for the setting up of a special committee to investigate a certain alleged situation in connection with the conduct of the House restaurant. While his resolution was pending in the Rules Committee, the gentleman filed a petition to discharge that committee, and obtained the necessary 145 signatures. Thereafter the Rules Committee favorably reported the resolution to the House. . . .

Under the rules the Rules Committee can only be discharged from consideration of either a "special order of business or a special rule for the consideration of any public bill or resolution reported by a committee." The gentleman's resolution was a mere "House resolution", which he could not have brought up on a "discharge day". . . .

---

[1] H. Res. 165.

[2] H.J. Res. 199.

[3] 78 Cong. Rec. 7161–63, 73d Cong. 2d Sess.

[4] See Rule XXVII clause 4, *House Rules and Manual* § 908 (1979).

THE SPEAKER: The Chair is ready to answer the parliamentary inquiry submitted by the gentleman from Illinois.

The resolution introduced by the gentleman from Illinois reads:

> That a committee of five Members of the House be appointed by the Speaker to investigate by what authority the Committee on Accounts controls and manages the conduct of the House restaurant and by what authority said committee or any members thereof issued and enforced rules or instructions whereby any citizen of the United States is discriminated against on account of race, color, or creed in said House restaurant—

And so forth. The discharge rule we are considering this morning provides very specifically, as follows:

> Under this rule it shall also be in order for a Member to file a motion to discharge the Committee on Rules from further consideration of any resolution providing either a special order of business, or a special rule for the consideration of any public bill or resolution favorably reported by a standing committee, or a special rule for the consideration of a public bill or resolution which has remained in a standing committee 30 or more days without action.

The gentleman's resolution which the Chair has just read does not provide for a special order of business or a special rule for the consideration of any public bill or resolution favorably reported by a standing committee or a special rule for the consideration of a public bill or resolution, which has remained in a standing committee 30 or more days without action, and, therefore, a motion to discharge the Committee on Rules will not lie, in the judgment of the Chair, under the discharge rule.

Committee on Ways and Means

§ 2.7 The House has agreed to a motion to discharge the Committee on Ways and Means from further consideration of a bill.

On Jan. 13, 1936,(5) Mr. Wright Patman, of Texas, moved, pursuant to Rule XXVII clause 4, to discharge the Committee on Ways and Means from the further consideration of a bill(6) providing for the immediate payment to veterans of the face value of their adjusted-service certificates and for controlled expansions of the currency. Following some debate, the motion was agreed to—yeas 228, nays 100.

§ 3. Calling Up Motion; Debate

Pursuant to the provisions of the rule,(7) a motion to discharge which has been on the calendar at least seven days(8) may be called up by a signatory thereof(9) for considera-

---

5. 80 CONG. REC. 336, 337, 74th Cong. 2d Sess.
6. H.R. 1.
7. Rule XXVII clause 4, *House Rules and Manual* § 908 (1979).
8. See § 3.1, infra.
9. See § 3.6, infra.

tion on the second and fourth Mondays of each month[10] except during the last six days of any session of Congress.[11] Of course, the House may by unanimous consent make the consideration of such motions in order on another day.[12]

A motion not called up on the first eligible Monday is in order for consideration on any subsequent eligible Monday.[13]

Debate on the motion is limited to 20 minutes—10 minutes under the control of the Member recognized to call up the motion and 10 minutes under the control of a Member recognized in opposition.[14] The proponents of a motion to discharge a committee have the right to close debate thereon.[15]

Expiration of Seven Legislative Days

§ 3.1 Motions to discharge committees may be called up only after seven legislative days have expired since the time the motion was placed on the calendar.

On Friday, Dec. 10, 1937,[16] Mr. Sam Rayburn, of Texas, propounded the following parliamentary inquiry:

> MR. RAYBURN: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:[17] The gentleman will state it.
>
> MR. RAYBURN: Several Members during the last day or two have been asking me with reference to the discharge petition which was signed up last week whether if we adjourn over tomorrow a sufficient number of legislative days will have intervened to make the wage-hour bill in order on Monday. I ask the Speaker if that is the fact?
>
> THE SPEAKER: In reply to the inquiry of the gentleman from Texas, and in order to avoid confusion about a proper decision of this question if it should arise, the Chair quotes the following excerpt from the discharge rule:
>
>> When a majority of the total membership of the House shall have signed the motion it shall be entered on the Journal, printed with the signatures thereto in the Congressional Record, and referred to the Calendar of Motions to Discharge Committees.
>>
>> On the second and fourth Mondays of each month, except during the last 6 days of any session of Congress, immediately after the approval of the Journal, any Member who has signed a motion to discharge which has been on the calendar at least 7 days prior thereto, and seeks recognition, shall be recognized for the purpose of calling up the motion; and the House shall proceed to its consideration in the

---

[10] See § 3.2, infra.

[11] See § 3.3, infra.

[12] See § 3.5, infra.

[13] See § 3.2, infra.

[14] See §§ 3.9, 3.10, infra.

[15] See § 3.13, infra.

[16] 82 CONG. REC. 1300, 75th Cong. 2d Sess.

[17] William B. Bankhead (Ala.).

manner herein provided without intervening motion except one motion to adjourn.

The petition to discharge the Committee on Rules from consideration of the rule involving the wage and hour bill was signed on December 2 [the preceding Thursday] by 218 Members of the House and immediately was referred to the Calendar of Motions to Discharge Committees under the rule the Chair has just read.

In answer to the inquiry of the gentleman from Texas the Chair holds that without any session of the House of Representatives tomorrow the 7 legislative days necessary in order to make this matter in order on Monday next will have expired, and there is no question in the mind of the Chair that the rule will have been complied with if we do not meet tomorrow. If that question should be raised on Monday next, the Chair would so hold.

Second and Fourth Mondays

§ 3.2 Motions to discharge committees may be called up on the second or fourth Monday of any month after they have been on the calendar for seven legislative days, and if they are not called up on the first eligible Monday they may be called up on any subsequent second or fourth Monday of a month.

On Dec. 18, 1937,(18) the following parliamentary inquiry was raised:

Mr. [Samuel B.] Pettengill [of Indiana]: Mr. Speaker, a parliamentary inquiry.

The Speaker:(19) The gentleman will state his parliamentary inquiry.

Mr. Pettengill: Directing the Chair's attention to the Ludlow petition which now may be called up on the second Monday of next month, if it fails to be called up on that day, would it retain its privileged status on a subsequent second or fourth Monday?

The Speaker: The status of the matter is that it is on the calendar of motions to discharge committees. If not called up on the first date on which it would be entitled to be called up, it remains on the calendar subject to further call on the second or fourth Mondays of a month.

Call of Motion on Last Six Days of Session

§ 3.3 A motion to discharge a committee cannot be called up during the last six days of a session.

On July 29, 1954,(20) the following parliamentary inquiry was raised:

Mr. [Harold C.] Hagen of Minnesota: Mr. Speaker, a parliamentary inquiry.

The Speaker:(1) The gentleman will state it.

---

18. 82 Cong. Rec. 1847, 75th Cong. 2d Sess. For an additional example see 90 Cong. Rec. 9, 78th Cong. 2d Sess., Jan. 10, 1944.

19. William B. Bankhead (Ala.).

20. 100 Cong. Rec. 12562, 83d Cong. 2d Sess.

1. Joseph W. Martin, Jr. (Mass.).

Mr. Hagen of Minnesota: Mr. Speaker, the inquiry is with reference to paragraph 908 of the rules of the House relative to a motion to discharge a committee. My question is, Is it possible during the last 6 days of the session after a motion to recess or adjourn sine die has been adopted by both Houses, to call up the bill H.R. 9245, the postal-pay bill, under the rules of the House?

The Speaker: In response to the parliamentary inquiry of the gentleman, the Chair invites attention to the second paragraph of clause 4 of rule XXVII, which contains the following statement:

> On the second and fourth Mondays of each month, except during the last 6 days of any session of Congress, immediately after the approval of the Journal, any Member who has signed a motion to discharge which has been on the calendar at least 7 days prior thereto, and seeks recognition, shall be recognized for the purpose of calling it up.

It seems perfectly clear to the Chair that the meaning of the rule is that when a motion has been on the calendar 7 legislative days a Member who signed the motion can call it up on the second or the fourth Monday, except when the second or fourth Monday comes during the last 6 days of a session. The exception then means that during the last 6 days of a session the motion cannot be called up at all.

Precedence of Motion Over Unfinished Business

§ 3.4 A motion to discharge which has been on the Discharge Calendar for seven legislative days may be of higher privilege for consideration on the second and fourth Mondays of the month than unfinished business from a preceding day.

On May 8, 1936,[2] during proceedings incident to the consideration of the unanimous-consent request of Mr. William B. Bankhead, of Alabama, that the House adjourn until the following Monday, Mr. Gerald J. Boileau, of Wisconsin, reserving the right to object, addressed an inquiry to the Chair.

Mr. Boileau: . . . [W]ill the Speaker make the situation clear with reference to the legislative program for Monday?

As I understand it, it will be in order before we complete this bill[3] to take up the question of the discharge of the Rules Committee from further consideration of the Frazier-Lemke bill. I would like to ask the Speaker if my understanding is correct, if consideration of the discharge petition would come up before the vote on this bill?

The Speaker:[4] The Chair thinks it would unless there is a previous understanding. The matter of which shall take precedence can be fixed by consent.

---

2. 80 Cong. Rec. 7010, 74th Cong. 2d Sess.
3. H.R. 12624, deficiency appropriation bill.
4. Joseph W. Byrns (Tenn.).

Calling Up By Unanimous Consent

§ 3.5 By unanimous consent, a motion to discharge, which under Rule XXVII clause 4 would be eligible to be called up on a Monday, was made in order on a Wednesday.

On June 8, 1960,(5) Mr. John W. McCormack, of Massachusetts, asked unanimous consent that motions in order under the discharge rule on the following Monday be postponed until the following Wednesday at which time they would be the first order of business. There was no objection to the gentleman's request.

Who May Call Up Motion

§ 3.6 A Member who calls up a motion to discharge must qualify as having signed the discharge petition.

On Aug. 10, 1970,(6) subsequent to the calling up, pursuant to Rule XXVII clause 4, by Mrs. Martha W. Griffiths, of Michigan, of a motion to discharge the Committee on the Judiciary from the further consideration of a House joint resolution,(7) the Speaker(8) sought to determine whether Mrs. Griffiths was in fact eligible to call up the motion:

> The Speaker: Did the gentlewoman sign the motion?
>
> Mrs. Griffiths: Yes, Mr. Speaker, I signed the motion.
>
> The Speaker: The gentlewoman qualifies.

Quorum Call Preceding Recognition to Call Up Motion

§ 3.7 On one occasion, a quorum call occurred before the reading of the Journal, on a day when the calling up of a motion to discharge a committee was to have been the first order of business after the reading of the Journal.

On Apr. 26, 1948,(9) the day on which the calling up of a motion to discharge the Committee on Agriculture from further consideration of a bill(10) was to have been

---

5. 106 Cong. Rec. 12120, 86th Cong. 2d Sess.
6. 116 Cong. Rec. 27999, 91st Cong. 2d Sess. For additional examples see 117 Cong. Rec. 39885, 92d Cong. 1st Sess., Nov. 8, 1971; and 111 Cong. Rec. 25180, 89th Cong. 1st Sess., Sept. 27, 1965.
7. H.J. Res. 264, proposing an amendment to the Constitution relative to equal rights for men and women.
8. John W. McCormack (Mass.).
9. 94 Cong. Rec. 4834, 80th Cong. 2d Sess.
10. H.R. 2245, repealing the tax on oleomargarine.

the first order of business after the reading of the Journal, a quorum call occurred prior to the reading of the Journal.

Unanimous-consent Requests Preceding Recognition to Call Up Motion

§ 3.8 A motion to discharge a committee under the provisions of Rule XXVII clause 4 is in order "immediately after the approval of the Journal;" but pending recognition of a Member to make such a motion, the Speaker has permitted a Member to proceed for one minute on an unrelated matter.

On Aug. 10, 1970,[11] after the approval of the Journal, the Speaker[12] made the following announcement to the House:

> The Speaker: The Chair would like to announce that the Chair is not going to recognize Members for the usual 1-minute speeches at this time, due to the situation with respect to the rules that exist in relation to the consideration of a constitutional amendment, with one exception: and that is that the Chair will recognize the gentleman from Pennsylvania (Mr. Corbett) to announce the death of our late and beloved colleague and friend, the gentleman from Pennsylvania (Mr. Watkins).

Proceedings incident to the announcement of the death of a Member from Pennsylvania ensued, at the conclusion of which Mrs. Martha W. Griffiths, of Michigan, was recognized to call up pursuant to Rule XXVII a motion to discharge the Committee on the Judiciary from further consideration of a House joint resolution[13] proposing an equal rights amendment to the Constitution.

Debate on Motion

§ 3.9 Debate on a motion to discharge a committee is limited to 20 minutes—10 minutes under the control of the Member recognized to call up the motion and 10 minutes under the control of a Member recognized in opposition.

On Nov. 8, 1971,[14] during proceedings incident to the House's consideration under Rule XXVII of a motion called up by Mr. Chalmers P. Wylie, of Ohio, to discharge the Committee on the Judiciary from further consideration of a House joint resolution,(15) the Speaker,(16) in his statement relative to the allocation of time for debate on the motion, said:

---

[11] 116 Cong. Rec. 27994–99, 91st Cong. 2d Sess. See also 88 Cong. Rec. 8066, 8067, 77th Cong. 2d Sess., Oct. 12, 1942, where the phrase "immediately after the approval of the Journal" was interpreted by Speaker Sam Rayburn (Tex.) as not precluding the recognition of Members for unanimous-consent requests subsequent to the reading of the Journal on a day when the call up of a motion to discharge a committee was pending.

[12] John W. McCormack (Mass.).

[13] H.J. Res. 264.

[14] 117 Cong. Rec. 39886, 92d Cong. 1st Sess. For a further example see 111 Cong. Rec. 25181, 89th Cong. 1st Sess., Sept. 27, 1965.

> Under the rule, the gentleman from Ohio (Mr. Wylie) will be recognized for 10 minutes, and the gentleman from New York (Mr. Celler, Chairman, Committee on the Judiciary) will be recognized for 10 minutes.

§ 3.10 In response to a parliamentary inquiry, the Speaker indicated that: (1) there would be 20 minutes of debate on a motion to discharge a committee from consideration of a joint resolution; and (2) the chairman of that committee would be recognized for 10 minutes if opposed to the motion.

On Aug. 10, 1970,(17) during proceedings incident to the House's consideration of a motion called up, pursuant to Rule XXVII clause 4, by Mrs. Martha W. Griffiths, of Michigan, to discharge the Committee on the Judiciary from further consideration of a House joint resolution,(18) Emanuel Celler, of New York (chairman of the committee) propounded a parliamentary inquiry:

> MR. CELLER: Mr. Speaker, I understand the rule provides for 20 minutes of debate, 10 minutes on either side. Is it correct that the chairman of the Judiciary Committee, being opposed to the discharge petition, will be allocated 10 minutes?
>
> THE SPEAKER:(19) The gentleman's statement is correct that the rule provides for 20 minutes of debate, 10 minutes on each side. If the gentleman from New York (Mr. Celler) is opposed to the motion, the Chair will recognize him for 10 minutes.
>
> Is the gentleman opposed to the motion?
>
> MR. CELLER: I am opposed to the motion, Mr. Speaker.
>
> THE SPEAKER: Under the rule, the gentlewoman from Michigan (Mrs. Griffiths) will be recognized for 10 minutes, and the gentleman from New York (Mr. Celler) will be recognized for 10 minutes.

---

15. H.J. Res. 191, proposing an amendment to the Constitution relative to nondenominational prayer in public buildings.

16. Carl Albert (Okla.).

17. 116 CONG. REC. 27999, 28004, 91st Cong. 2d Sess.

18. H.J. Res. 264, proposing an amendment to the Constitution relative to equal rights for men and women.

19. John W. McCormack (Mass.).

§ 3.11 A Member recognized to control half of the 20 minutes' debate on a motion to discharge may yield any part of it.

On June 15, 1960,(20) the Speaker(1) announced that, pursuant to Rule XXVII clause 4, Mr. T. Ashton Thompson, of Louisiana, as proponent, and Mr. Edward H. Rees, of Kansas, as opponent, would each be recognized for 10 minutes of debate incident to the House's consideration of a pending motion to discharge the Committee on Rules from further consideration of a resolution(2) making in order consideration of a bill.(3) Debate by both Members ensued, during the course of which Mr. Rees yielded five minutes of his allotted time to Mr. H. R. Gross, of Iowa. The following exchange then occurred:

> MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. HALLECK. I understood the gentleman from Kansas yielded 5 minutes to the gentleman from Iowa. Would that be within his rights?
>
> THE SPEAKER: The gentleman from Iowa is recognized for 5 minutes.

§ 3.12 The Member recognized in opposition to a motion to discharge a committee controls the time for debate thereon, and although he may yield part of his time to another Member, that Member may not yield part of that time to still another Member.

On June 11, 1945,(4) the House was debating a motion called up pursuant to Rule XXVII clause 4 to discharge the Committee on Rules from a resolution making in order the consideration of a bill.(5) The Member who had been recognized in opposition to the motion, Mr. Edward E. Cox, of Georgia, yielded a portion of his allotted time to Mr. John E. Rankin, of Mississippi. Thereupon, Mr. Rankin inquired of the Chair as to whether he would be permitted to yield this time as he saw fit. Responding in the negative, the Speaker(6) stated,

---

20. 106 CONG. REC. 12691, 12693, 12720–25, 86th Cong. 2d Sess.
1. Sam Rayburn (Tex.).
2. H. Res. 537.
3. H.R. 9883, adjusting rates of compensation for officers and employees of the federal government.
4. 91 CONG. REC. 5892–96, 79th Cong. 1st Sess.
5. H.R. 7, making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers.
6. Sam Rayburn (Tex.).

"The gentleman from Georgia [Mr. Cox] controls the time."

§ 3.13 The proponents of a motion to discharge a committee have the right to close debate thereon.

On Apr. 26, 1948,(7) prior to the commencement of debate on a motion called up pursuant to Rule XXVII clause 4 to discharge the Committee on Agriculture from further consideration of a bill,(8) Mr. L. Mendel Rivers, of South Carolina, who had been recognized as the proponent of the motion, propounded a parliamentary inquiry:

> Mr. Rivers: The proponents of the motion have 10 minutes and the opponents have 10 minutes, and the proponents have the right to close the debate?

Answering in the affirmative, the Speaker(9) said:

> The gentleman has stated the situation accurately. He has the right to close debate.

Intervening Motions

§ 3.14 When a motion to discharge a committee is called up, a motion to postpone consideration to a day certain is not in order.

On Dec. 18, 1937,(10) Mr. Samuel B. Pettengill, of Indiana, inquired of the Chair as to whether a motion to postpone consideration to a day certain would be in order subsequent to the calling up, pursuant to Rule XXVII clause 4, of a motion to discharge a committee. Responding to the parliamentary inquiry, the Speaker(11) stated:

> Under the rules, it would not. The Chair directs the attention of the gentleman from Indiana to the discharge rule which clearly sets out that no intervening motion may take place except one motion to adjourn.

§ 3.15 The motion to lay on the table a motion to discharge a committee is not in order.

On June 11, 1945,(12) Mr. Vito Marcantonio, of New York, moved to discharge the Committee on Rules from a resolution(13) making in order consideration of a bill.(14)

---

(7) 94 Cong. Rec. 4835, 4841, 4842, 80th Cong. 2d Sess.

(8) H.R. 2245, repealing the tax on oleomargarine.

(9) Joseph W. Martin, Jr. (Mass.).

(10) 82 Cong. Rec. 1847, 75th Cong. 2d Sess.

(11) William B. Bankhead (Ala.).

(12) 91 Cong. Rec. 5892, 79th Cong. 1st Sess.

(13) H. Res. 139.

(14) H.R. 7, making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers.

Mr. John E. Rankin, of Mississippi, moved that the motion be laid on the table. Ruling on the motion to table, the Speaker(15) stated, "That motion is not in order under the rules."

Parliamentarian's Note: Rule XXVII clause 4, *House Rules and Manual* § 908 (1981), provides, in part, that:

> On the second and fourth Mondays of each month except during the last six days of any session of Congress, immediately after the approval of the Journal, any Member who has signed a motion to discharge which has been on the calendar at least seven days prior thereto, and seeks recognition, shall be recognized for the purpose of calling up the motion, and the House shall proceed to its consideration in the manner herein provided *without intervening motion* except one motion to adjourn. [Emphasis added.]

Extensions of Remarks

§ 3.16 The Speaker may decline to recognize Members to extend their remarks where a discharge motion has been called up and is pending before the House.

On June 11, 1945,(16) during the consideration, under Rule XXVII clause 4, of a motion to discharge the Committee on Rules from a resolution(17) making in order consideration of a bill,(18) Mr. John E. Rankin, of Mississippi, asked unanimous consent to extend his remarks at that point in the Record. Responding to the gentleman's request, the Speaker(19) stated, "The Chair cannot recognize Members to extend their remarks until this matter has been disposed of."

§ 4. Consideration of Discharged Measures

Procedures relative to the consideration of discharged bills and resolutions are delineated by provisions of the discharge rule.(20) Following agreement to a motion to discharge the Committee on Rules from further consideration of any resolution pending before the committee, the House immediately votes on the adoption of the resolution,(1) the Speaker not entertaining any dilatory or

---

15. Sam Rayburn (Tex.).
16. 91 Cong. Rec. 5892–96, 79th Cong. 1st Sess.
17. H. Res. 139.
18. H.R. 7, making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers.
19. Sam Rayburn (Tex.).
20. Rule XXVII clause 4, *House Rules and Manual* § 908 (1979).
1. See § 4.1, infra.

other intervening motion(2) except one motion to adjourn.

Should a motion prevail to discharge one of the standing committees of the House from any public bill or resolution pending before the committee, it is then in order for any Member who signed the motion to move to proceed to the immediate consideration thereof.(3) If the motion for immediate consideration is adopted, the legislation is taken up under the general rules of the House.(4) Where no motion is made providing for the measure's immediate consideration or should the House by vote decide against its consideration, the discharged measure is referred to its proper calendar.(5)

Consideration of Discharged Resolutions

§ 4.1 Following agreement to a motion to discharge the Committee on Rules from further consideration of a resolution providing a special order of business, the question immediately occurs, without debate or other intervening motion, on agreeing to the resolution.

On Sept. 27, 1965,(6) the House agreed to a motion offered by Mr. Abraham J. Multer, of New York, to discharge the Committee on Rules from a resolution(7) making in order the consideration of a certain bill.(8) The resolution was then read to the House, whereupon, the Speaker(9) put the question on agreeing to the resolution. The resolution was agreed to—yeas 223, nays 179, not voting 30.

Tabling Discharged Resolutions

§ 4.2 It is not in order to move to lay on the table a special-order resolution which had been taken from the Committee on Rules through the operation of a motion to discharge.

On June 11, 1945,(10) during proceedings incident to the consideration by the House of a resolution(11) which had, pursuant to Rule XXVII clause 4, been discharged from the Committee on Rules, Mr. John E. Rankin, of Mississippi, made a motion that the resolution be laid on the table. Responding to the gentleman's motion the Speaker(12) stated, "Under the rule, that motion is not in order."

---

(2) See §§ 4.1, 4.2, infra.

(3) See § 4.3, infra.

(4) See §§ 4.4 and 4.6, infra.

(5) See § 4.7, infra.

(6) 111 Cong. Rec. 25180–85, 89th Cong. 1st Sess. For an additional example, see 91 Cong. Rec. 5896, 79th Cong. 1st Sess., June 11, 1945.

(7) H. Res. 515.

(8) H.R. 4644, providing for home rule for the District of Columbia.

(9) John W. McCormack (Mass.).

(10) 91 Cong. Rec. 5892–96, 79th Cong. 1st Sess.

Privilege of Motion to Consider Discharged Bill

§ 4.3 Following adoption of a motion to discharge a standing committee from consideration of a public bill or resolution, the motion to proceed to the immediate consideration of the legislation is privileged, if made by a Member who signed the discharge petition, and is decided without debate.

On Nov. 8, 1971,(13) following the adoption by the House of a motion(14) offered by Mr. Chalmers P. Wylie, of Ohio, to discharge the Committee on the Judiciary from further consideration of a House joint resolution,(15) Mr. Wylie moved, pursuant to Rule XXVII clause 4, that the House proceed to the immediate consideration of the resolution. Thereupon, without debate, the motion was considered and agreed to.

Parliamentarian's Note: A joint resolution proposing a constitutional amendment does not require consideration in Committee of the Whole, and therefore consideration in the House was proper under the general rules of the House.

Consideration of Discharged Measure in Committee of the Whole

§ 4.4 After the agreement by the House to a motion to discharge a bill from a committee, the Speaker entertains a motion to go into the Committee of the Whole for the consideration of the bill if the bill requires such consideration under the general rules of the House.

On Apr. 26, 1948,(16) following the agreement by the House to a motion to discharge the Committee on Agriculture from further consideration of a bill,(17) the Speaker(18) made an announcement to the House:

---

(11) H. Res. 139, providing for the consideration of the bill H.R. 7, making unlawful a poll tax as a prerequisite to voting in a primary or other election for national officers.

(12) Sam Rayburn (Tex.).

(13) 117 Cong. Rec. 39885–89, 92d Cong. 1st Sess. For a further example see 116 Cong. Rec. 27999, 28004, 91st Cong. 2d Sess., Aug. 10, 1970.

(14) Identified as motion No. 1.

(15) H.J. Res. 191, proposing an amendment to the Constitution relative to nondenominational prayer in public buildings.

(16) 94 Cong. Rec. 4835, 4841, 4842, 80th Cong. 2d Sess.

ANNOUNCEMENT

THE SPEAKER: Without interfering with the rights of the gentleman from South Carolina to move to go into the Committee of the Whole, the Chair will entertain consent requests for extensions of remarks only.

After the extension of remarks on the part of several Members, Mr. L. Mendel Rivers, of South Carolina, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the discharged bill. The motion was agreed to.

§ 4.5 The Speaker has announced that without interfering with the rights of a Member to move to go into the Committee of the Whole for the consideration of a bill before the House as a result of a motion to discharge, he would entertain consent requests for extensions of remarks only.

On Apr. 26, 1948,(19) Mr. L. Mendel Rivers, of South Carolina, called up a motion to discharge the Committee on Agriculture from the further consideration of a bill. Following the agreement by the House to the motion, Speaker Joseph W. Martin, Jr., of Massachusetts, made an announcement to the House:(20)

ANNOUNCEMENT

THE SPEAKER: Without interfering with the rights of the gentleman from South Carolina to move to go into the Committee of the Whole, the Chair will entertain consent requests for extensions of remarks only.

After entertaining several requests for extensions of remarks, the Speaker recognized Mr. Rivers to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the discharged bill. The motion was agreed to.(21)

Hour Rule on Debate

§ 4.6 Where a measure not requiring consideration in Committee of the Whole is before the House pursuant to a motion to discharge, the Member who made the motion for its immediate

---

(17) H.R. 2245, repealing the tax on oleomargarine.

(18) Joseph W. Martin, Jr. (Mass.).

(19) 94 CONG. REC. 4835, 80th Cong. 2d Sess.

(20) *Id.* at p. 4841.

(21) *Id.* at p. 4842.

consideration is recognized in the House under the hour rule.

On Aug. 10, 1970,(22) following the agreement by the House to motions offered by Mrs. Martha W. Griffiths, of Michigan, discharging the Committee on the Judiciary from further consideration of a House joint resolution(23) and providing for the resolution's immediate consideration by the House, the Speaker(24) recognized Mrs. Griffiths for one hour of debate on the measure.

Referral of Discharged Bills

§ 4.7 Where a committee is discharged from the further consideration of a bill and no motion is made providing for the immediate consideration of such bill, the Speaker refers the bill to its appropriate calendar.

On Jan. 13, 1936,(25) following the agreement by the House to a motion to discharge the Committee on Ways and Means from the further consideration of a bill,(26) Mr. Hamilton Fish, Jr., of New York, propounded a parliamentary inquiry:

> MR. FISH: Under the rule, when a committee is discharged from the consideration of a bill, does not the bill automatically come up for consideration in the House?
>
> THE SPEAKER:(1) It does not, except on motion of a Member who signed the discharge petition.
>
> The bill will be referred to the Committee of the Whole House on the state of the Union and ordered to be printed.

§ 5. Discharge of Vetoed Bills, Other Questions Privileged Under the Constitution, Resolutions of Inquiry, and Reorganization Plans

The Constitution(2) provides that when the President returns a bill to the House in which it originated, with his objections, that House shall proceed to reconsider it and determine whether the bill shall be again passed, the objections of the President to the contrary notwithstanding. Under this provision, it has been held that a motion to

---

22. 116 CONG. REC. 27999, 28004, 91st Cong. 2d Sess.
23. H.J. Res. 264, proposing an amendment to the Constitution relative to equal rights for men and women.
24. John W. McCormack (Mass.).
25. 80 CONG. REC. 336, 337, 74th Cong. 2d Sess.
26. H.R. 1, providing for the immediate cash payment of certain service certificates.
1. Joseph W. Byrns (Tenn.).
2. U.S. Const. art. I § 7, clause 2.

discharge a committee from the further consideration of a vetoed bill so returned to the House presents a question of constitutional privilege and is, therefore, in order at any time.(3) While the ordinary motion to discharge a committee from consideration of an unprivileged legislative proposition is not privileged,(4) it is in order to move to discharge a committee from consideration of a proposition referred through the hopper, involving a question of constitutional privilege such as the right of a Member to his seat, the punishment of a Member, or an impeachment resolution,(5) notwithstanding the availability of the discharge petition under Rule XXVII clause 4;(6) the rationale being that matters properly involving questions of the privileges of the House retain their privilege and may be reached by use of a motion to discharge even though referred through the hopper.

Rule XXII clause 5(7) provides that all resolutions of inquiry shall be reported to the House within one week after presentation. Pursuant to the rule, committees are required to report resolutions of inquiry back to the House within one week of the reference, and this week's time has been construed to be seven legislative days. If a committee refuses or neglects to report the resolution back, the House may reach the resolution only by a motion to discharge the committee from the resolution's further consideration. A privileged status is accorded the motion to discharge in cases of resolutions of inquiry.(8) The privileged status of the motion does not obtain, however, where the resolution of inquiry has sought opinions, not facts, as required under the rule.(9)

Prior to the amendments adopted in 1977 to the Reorganization Act, reorganization plans submitted by the President were subject to discharge from committee pursuant to the statute in existence at that time.(10) A resolution with respect to a reorganization plan could be discharged from the committee to which it had been referred under the provisions of 5 USC § 911(a) if the committee had not reported it at the end of 20 calendar days after its introduction. However, a motion to discharge could be made only by an individual favoring the resolution.(11) Debate on the motion was limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution.(12)

---

(3) See § 5.1, infra. See also Ch. 13, supra.

(4) 8 Cannon's Precedents § 2316.

(5) See 3 Hinds' Precedents § 2709; 8 Cannon's Precedents § 2316.

(6) See Ch. 14, § 8.3, supra, where a discharge petition was utilized unsucessfully against an impeachment resolution referred through the hopper to the Committee on the Judiciary.

(7) *House Rules and Manual* § 855 (1979).

(8) See § 5.2, infra.

(9) See § 5.3, infra.

Parliamentarian's Note: See also *House Rules and Manual*, 96th Congress, § 1013, chapter on "Congressional Disapproval" Provisions Contained in Public Laws, Part A, for other statutory provisions containing discharge procedures.

Discharging Vetoed Bills

§ 5.1 A motion to discharge a committee from the consideration of a vetoed bill, while presenting a question of constitutional privilege, is subject to the motion to lay on the table.

On Sept. 7, 1965,(13) during proceedings incident to the consideration of a motion raised as a question of constitutional privilege by Mr. Durward G. Hall, of Missouri, which sought to discharge the Committee on Armed Services from further consideration of a vetoed bill,(14) the following parliamentary inquiry was raised:

> MR. HALL: Mr. Speaker, I rise to a question of the highest privilege of the House, based directly on the Constitution and precedents, and offer a motion.
>
> THE SPEAKER PRO TEMPORE:(15) The Clerk will report the motion.
>
> The Clerk read as follows:
>
> > Motion by Mr. Hall:
> >
> > *Resolved*, That the Committee on Armed Services be discharged from further consideration of the bill H.R. 8439, for military construction, with the President's veto thereon, and that the same be now considered.
>
> MR. L. MENDEL RIVERS of South Carolina: Mr. Speaker, I move to lay that motion on the table. . . .
>
> MR. HALL: Mr. Speaker, a parliamentary inquiry.

---

(10) 5 USC § 911 (1970 ed.), revised by Pub. L. No. 95–17, Apr. 6, 1977. Current procedure (1981) provides an automatic discharge of a disapproval resolution after 45 days.

(11) See § 5.5, infra.

(12) See §§ 5.6, 5.7, infra.

(13) 111 CONG. REC. 22958, 22959, 89th Cong. 1st Sess. For a further illustration see 4 Hinds' Precedents § 3532.

(14) H.R. 8439, relating to military construction had been vetoed on Aug. 21, 1965 and referred back to the Committee on Armed Services on Aug. 23, 1965.

(15) Carl Albert (Okla.).

The Speaker Pro Tempore: The gentleman will state it.

Mr. Hall: The question is on the motion of the gentleman from South Carolina [Mr. Rivers] to table my motion, which is highly privileged?

The Speaker Pro Tempore: The gentleman is correct.

Mr. Hall: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Hall: Is a highly privileged motion according to the Constitution subject to a motion to table?

The Speaker Pro Tempore: It is.

Subsequently, the motion to table was agreed to.

Discharging Resolutions of Inquiry

§ 5.2 A motion to discharge a committee from consideration of a resolution of inquiry is privileged (under Rule XXII clause 5) after the resolution has been pending before the committee for seven legislative days.

On Aug. 2, 1971,(16) Mr. James M. Collins, of Texas, moved to discharge the Committee on Education and Labor from the further consideration of a resolution of inquiry(17) directing the Secretary of Health, Education, and Welfare to furnish the House with certain documents. The resolution of inquiry had been pending before that committee at least seven legislative days without action thereon. The resolution was read to the House, whereupon, without debate, the question on the motion to discharge was taken; the motion was agreed to—yeas 252, nays 129, not voting 52.

§ 5.3 A motion to discharge a committee from consideration of a resolution of inquiry is not in order where the resolution is not privileged because it calls upon the head of an executive department to furnish the House with a statement of opinion and not merely factual information.

On July 7, 1971,(18) Ms. Bella S. Abzug, of New York, moved to discharge the Committee on Armed

---

16. 117 Cong. Rec. 28863, 22869, 92d Cong. 1st Sess. See also 96 Cong. Rec. 1755, 81st Cong. 2d Sess., Feb. 9, 1950, where Speaker Sam Rayburn (Tex.), informed the House that if a committee to which a resolution of inquiry had been referred did not report the resolution within seven legislative days, the Member who had introduced the resolution could call it up for consideration as a matter of privilege.

17. H. Res. 539.

18. 117 Cong. Rec. 23810, 23811, 92d Cong. 1st Sess.

Services from further consideration of a resolution of inquiry:

> H. RES. 491
>
> *Resolved,* That the President, the Secretary of State, Secretary of Defense, and the Director of the Central Intelligence Agency be, and they are hereby, directed to furnish the House of Representatives within fifteen days after the adoption of this resolution with full and complete information on the following—
>
> the history and rationale for United States involvement in South Vietnam since the completion of the study entitled "United States—Vietnam Relationships, 1945–1967", prepared by the Vietnam Task Force, Office of the Secretary of Defense;
>
> the known existing plans for residual force of the United States Armed Forces in South Vietnam;
>
> the nature and capacity of the government of the Republic of Vietnam, including but not limited to analyses of their past and present military capabilities, their capacity for military and economic self-sufficiency including but not limited to analyses of the political base of the Republic, the scope, if any, of governmental malfunction and corruption, the depth of popular support and procedures for dealing with non-support; including but not limited to known existing studies of the economy of the Republic of South Vietnam and the internal workings of the government of the Republic of South Vietnam;
>
> the plans and procedures, both on the part of the Republic of South Vietnam and the United States Government for the November 1971 elections in the Republic of South Vietnam, including but not limited to analyses of the United States involvement, covert or not, in said elections.

A point of order was made by Mr. F. Edward Hébert, of Louisiana, asserting that the resolution was not privileged because it sought opinions, not facts as required under the rule.(19) In his ruling sustaining the point of order, the Speaker(20) stated:

> THE SPEAKER: . . . The gentlewoman from New York has moved to discharge the Committee on Armed Services from further consideration of the resolution, House Resolution 491. The gentlewoman has furnished the Chair a copy of the resolution, and the Chair appreciates that fact, since it gives an opportunity to the Chair to examine the resolution prior to ruling on the point of order.
>
> The resolution under consideration has not been reported by the committee to which it has been referred.
>
> Clause 5 of rule XXII provides that:
>
> > All resolutions of inquiry addressed to the heads of executive departments shall be reported to the House within one week after presentation.
>
> The gentleman from Louisiana makes a point of order against the motion to discharge on the ground that the resolution is not privileged under the rule because it calls for opinions in addition to factual information.

---

19. Rule XXII clause 5, *House Rules and Manual* §§ 855, 857 (1979).

20. Carl Albert (Okla.).

It has been consistently held that to retain the privilege under the rule, resolutions of inquiry must call for facts rather than opinions—Cannon's precedents, volume VI page 413 and pages 418 to 432. Speaker Longworth, on February 11, 1926, held that a resolution inquiring for such facts as would inevitably require the statement of an opinion to answer such inquiry was not privileged—Record, page 3800.

Among other requests, House Resolution 491 calls for the furnishing of one, the "rationale" for U.S. involvement in South Vietnam since the completion of the study; two, the nature and "capacity" of the Government of the Republic of Vietnam, including "analyses" of their military "capabilities"; their capacity for self-sufficiency which would include analyses of the Government's political base, the scope of malfunction and corruption, the depth of popular support; and three, analyses of U.S. involvement in 1971 elections in South Vietnam.

In at least these particulars, executive officials are called upon—not for facts—but to furnish conclusions, which must be, essentially, statements of opinion.

The Chair therefore holds that House Resolution 491 is not a privileged resolution within the meaning of clause 5, rule XXII, and that the motion to discharge the Committee on Armed Services from its further consideration is not in order.

An appeal from the ruling of the Chair made by Ms. Abzug was laid on the table.

Debate on Resolutions of Inquiry

§ 5.4 A resolution of inquiry is normally debatable in the House under the hour rule; but when a motion to discharge a committee from further consideration of a resolution of inquiry has been agreed to and the previous question has been ordered on the resolution without intervening debate, the Speaker may invoke the 40-minute rule (Rule XXVII clause 3) allotting 20 minutes each to those supporting and opposing the resolution.

On Aug. 2, 1971,(1) the previous question was ordered without debate on a resolution of inquiry(2) which was before the House pursuant to a motion to discharge. Mr. Thomas P. O'Neill, Jr., of Massachusetts, then raised a parliamentary inquiry:

> MR. O'NEILL: Mr. Speaker, a parliamentary inquiry: In view of the fact that there was no debate on this, is a Member entitled to 20 minutes if he asks for time?

---

1. 117 CONG. REC. 28863, 28869, 92d Cong. 1st Sess.
2. H. Res. 539, directing the Secretary of Health, Education, and Welfare to furnish the House with certain documents.

The Speaker:(3) He is.

Mr. O'Neill: Mr. Speaker, I am asking for the 20 minutes. I have some questions I would like to ask on this and have the chairman of the Committee on Education and Labor explain it.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, has not the previous question been moved and accepted?

The Speaker: Yes, it has.

Mr. O'Neill: Mr. Speaker, I was on my feet seeking recognition.

Mr. Hall: Regular order, Mr. Speaker.

The Speaker: Inasmuch as there has been no debate on the resolution, the 40-minute rule applies, 20 minutes to each side. The gentleman from Texas is entitled to 20 minutes and the gentleman from Massachusetts is entitled to 20 minutes.

Debate incident to the consideration of the resolution ensued, at the conclusion of which the resolution was agreed to. A motion to reconsider was laid on the table.

Discharging Resolutions Relating to Reorganization Plans (Prior to 95th Congress)

§ 5.5 Pursuant to the provisions of 5 USC § 911 (1970 ed.), a motion to discharge a committee from further consideration of a resolution with respect to a reorganization plan could be made only by a Member favoring the resolution.

On Aug. 3, 1961,(4) the following proceedings occurred:

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, I offer a privileged motion dealing with Reorganization Plan No. 6.

The Speaker:(5) The Clerk will report the motion.

The Clerk read as follows:

> Mr. Gross moves to discharge the Committee on Government Operations from further consideration of House Resolution 335, introduced by Mr. John S. Monagan, of Connecticut, disapproving Reorganization Plan No. 6, transmitted to Congress by the President on June 12, 1961.

The Speaker: Is the gentleman in favor of the resolution?

Mr. Gross: Mr. Speaker, I am in favor of the disapproving resolution, yes.

The Speaker: The gentleman is entitled to 30 minutes.

Debate on Discharging Reorganization Plans

§ 5.6 Debate on a motion to discharge a committee from further

---

3. Carl Albert (Okla.).

4. 107 Cong. Rec. 14548–54, 87th Cong. 1st Sess. For a further example see 107 Cong. Rec. 13084, 87th Cong. 1st Sess., July 20, 1961. The amendments to the Reorganization Act in the 95th Congress (Pub. L. No. 95–17) removed the concept of the motion to discharge from the act. Under the current procedure, a resolution is deemed to be discharged 45 days after introduction.

5. Sam Rayburn (Tex.).

consideration of a resolution disapproving a reorganization plan was limited to one hour (5 USC § 911) and was equally divided between the Member making the motion and a Member opposed thereto.

On Aug. 3, 1961,[6] during proceedings incident to a motion offered by Mr. H. R. Gross, of Iowa, to discharge the Committee on Government Operations from further consideration of a resolution[7] disapproving a reorganization plan, the Speaker[8] divided the one hour permitted by statute[9] for debate on such motions equally between Mr. Gross, the maker of the motion, and Mr. Dante B. Fascell, of Florida, a Member opposed thereto. Following the announcement of the Chair relative to the allocation of available time, Mr. Gross was recognized to open debate.

§ 5.7 Debate on a motion to discharge a committee from further consideration of a resolution disapproving a reorganization plan was, by unanimous consent, extended from one to two hours, to be controlled and divided by the proponent of the motion and a Member designated by the Speaker.

On July 18, 1961,[10] a unanimous-consent request was made to the House:

> MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I ask unanimous consent that in the event a motion is made to discharge the Committee on Government Operations on the resolution disapproving Reorganization Plan No. 7, that the time for debate be extended from 1 hour to 2 hours, one-half to be controlled by the proponent of the motion and one-half by a Member designated by the Speaker.
>
> THE SPEAKER:[11] Is there objection to the request of the gentleman from Massachusetts?
>
> There was no objection.

On July 20, 1961,[12] the proponent and opponent of a resolution disapproving of a reorganization plan were, pursuant to this unanimous-consent agreement, each recognized for one hour on the motion to discharge.

Discharging Reorganization Plans by Unanimous Consent

§ 5.8 By unanimous consent, the House agreed to a motion that

---

[6] 107 CONG. REC. 14548–54, 87th Cong. 1st Sess.

[7] H. Res. 335.

[8] Sam Rayburn (Tex.).

[9] 5 USC § 911.

[10] 107 CONG. REC. 12774, 87th Cong. 1st Sess.

[11] Sam Rayburn (Tex.).

[12] 107 CONG. REC. 13084, 87th Cong. 1st Sess.

a select committee be discharged from further consideration of a concurrent resolution disapproving a reorganization plan.

On May 7, 1940,(13) the following proceedings transpired:

Mr. [Clarence F.] Lea [of California]: Mr. Speaker, I move to discharge the Select Committee on Government Organization from further consideration of House Concurrent Resolution 60.

The Speaker:(14) The Clerk will report the resolution.

The Clerk read as follows:

House Concurrent Resolution 60

Resolved by the House of Representatives (the Senate concurring), That the Congress does not favor the Reorganization Plan No. IV transmitted to Congress by the President on April 11, 1940.

Mr. [John J.] Cochran [of Missouri]: Mr. Speaker, the majority members of the Select Committee on Organization are in accord with the gentleman from California, and I ask unanimous consent that the motion of the gentleman from California to discharge the select committee be considered as having been agreed to.

The Speaker: Without objection, it is so ordered.

There was no objection.

---

13. 86 Cong. Rec. 5676, 76th Cong. 3d Sess.
14. William B. Bankhead (Ala.).

APPENDIX

Recent History of Discharge Motions

Congress	Number of motions filed	Motions signed by requisite number of Members
73d (1933 to 1934)	31	6
74th (1935 to 1936)	33	3
75th (1937 to 1938)	43	4
76th (1939 to 1940)	37	2
77th (1941 to 1942)	15	1
78th (1943 to 1944)	21	3
79th (1945 to 1946)	35	3
80th (1947 to 1948)	20	1
81st (1949 to 1950)	34	3
82d (1951 to 1952)	14	0
83d (1953 to 1954)	10	1
84th (1955 to 1956)	6	1
85th (1957 to 1958)	7	1
86th (1959 to 1960)	7	1
87th (1961 to 1962)	6	0
88th (1963 to 1964)	5	0
89th (1965 to 1966)	6	1
90th (1967 to 1968)	4	0
91st (1969 to 1970)	12	1
92d (1971 to 1972)	15	1
93d (1973 to 1974)	10	0
94th (1975 to 1976)	15	0
95th (1977 to 1978)	11	0
96th (1979 to 1980)	14	2
Total	411	35

From the beginning of the 73d Congress through the end of the 96th (a period of 47 years), 411 motions to discharge committees have been filed. In that time, two bills have become law through the use of the complete discharge process: S. 2475, Public Law No. 75-718 (Labor Standards, Wages and House); and H.R. 9883, Public Law No. 86-586 (Federal Employees Pay Bill). The latter bill, which was vetoed, became law when Congress overrode the veto on July 1, 1960. The following is a further numerical analysis of the outcome of proceedings related to the 411 motions to discharge committees referred to above:

35 motions received a sufficient number of signatures for discharge.(1)

18 motions that were fully signed were agreed to.

1 motion failed when called up.

2 bills were defeated on passage in the House.

1 bill was recommitted after adoption of the motion to discharge and the resolution providing for consideration of the bill.

3 bills passed the House but were not reported in the Senate.

8 bills passed to the stage of being reported in the Senate.

1 simple resolution was agreed to after discharge of the committee.

3 bills (all of which became law) and one resolution were reported after discharge petitions were fully signed, but the motions to discharge in these instances were not called up.

1 bill was reported after the discharge motion was filed but before the motion was eligible to be called up; the bill passed the House under suspension of the rules, but the proceedings were subsequently vacated and a Senate bill passed in lieu of the House bill.

2 bills, as noted above, became law through use of the complete discharge procedure.

---

1. The number of signatures required has normally been 218, except that 219 were required in the 86th and 87th Congresses, and 145 were required in the 73d Congress.

CHAPTER 19

The Committee of the Whole

A. In General

- § 1. Jurisdiction; House as in Committee of the Whole Distinguished
- § 2. Motions and Requests Generally
- § 3. Remarks in the Congressional Record
- § 4. Resolving Into Committee of the Whole

B. The Chairman

- § 5. Speaker's Appointment of Chairman
- § 6. Chairman's Role; Jurisdiction
- § 7. —Limitations on the Chairman's Jurisdiction
- § 8. — Rulings Relating to Amendments
- § 9. —Appeals of Rulings

C. Motion to Recommend Striking Enacting Clause

- § 10. Generally
- § 11. When in Order
- § 12. Procedures; Qualification to Offer or Oppose
- § 13. Debate
- § 14. Renewal of Motion

D. Consideration and Debate

- § 15. Generally
- § 16. Time Limitations

Commentary and editing by Thomas J. Nicola, J.D.

§ 17. Calling Members to Order
§ 18. Reading Papers

E. Points of Order

§ 19. Generally
§ 20. Timeliness

F. Rising of the Committee of the Whole

§ 21. Generally
§ 22. Motions to Rise
§ 23. — When in Order
§ 24. — Offering the Motion
§ 25. — Proceedings Subsequent to Action on Motion
§ 26. Resumption of Business After Committee Resumes Sitting

INDEX TO PRECEDENTS

Adjourn, motion to, § 2.4
Amend, precedence of motion to, over motion to rise with recommendation, §§ 2.3, 23.14
Amendments considered in the Committee
  adoption of amendment in nature of substitute, effect of, on motion to strike enacting clause, §§ 11.6, 11.7
  ambiguity of amendment ruled on by Chairman, § 8.5
  authority of Chairman to allocate debate time on amendments, § 8.11
  consistency of amendments ruled on by Chairman, §§ 8.6–8.8
  constitutionality of proposed amendment ruled on by Chairman, § 8.10
  interpretation of, § 8.4
  propriety of considering amendment identical to previously passed bill, § 8.9
Appeals from rulings of the Chairman
  debate on appeal, § 9.6
  issue on appeal, § 9.3
  power to overrule decision on appeal, § 9.5
  propriety of appeal, §§ 9.1, 9.2
  rulings as to support for teller vote, § 9.4
  table, appeal as subject to motion to, § 9.8
  teller vote, effect of refusal of, ruling on, § 9.4
  timeliness of points of order, as to, § 20.9
  vacating chair to put appeal, § 9.7
Automatic call of House on motion to resolve into Committee, § 4.9
Bills, motion to dispense with first reading of, § 2.11
Calendar Wednesday, proceedings after rising of Committee on, § 25.5

Calling Members to order for objectionable words in debate
  automatic resolution into Committee after Speaker's ruling, § 17.5
  expungement of words, § 17.3
  rise of Committee to report objectionable words, § 17.2
  scope of ruling by Speaker, § 17.4
  seating of Member, § 17.1
  withdrawal of demand for, § 17.6
  withdrawal of objectionable words after Speaker's ruling, § 17.7
Chairman, appeals of rulings by
  debate on appeal, § 9.6
  issue to be voted on, § 9.3
  power to overrule decision on appeal, § 9.5
  propriety of appeal, §§ 9.1, 9.2
  table, appeal as subject to motion to, § 9.8
  teller vote, effect of refusal of, ruling on, § 9.4
  vacating chair to put appeal, § 9.7
Chairman, limits on jurisdiction of
  committee reports, sufficiency or legal effect of, §§ 7.16, 7.17
  constitutional questions, §§ 7.1–7.3
  executive session, sitting in, § 7.18
  existing law, consistency of proposal with, § 7.5
  House action, anticipating, §§ 7.9–7.11
  hypothetical questions, §§ 7.6–7.8
  merits of proposed legislation, § 7.4
  Senate procedure, interpretation of, § 7.19
  time limitation, rescinding, § 7.12
  unfinished business, time to resume, §§ 7.14, 7.15
  vote required in House, ruling as to, as prerogative of Speaker, § 7.13
Chairman of the Committee of the Whole
  generally, § 5.1
  appeal of Chair's ruling, debate on, § 15.13
  appreciation expressed to Chairman, § 6.5
  Chairman pro tempore, § 5.2
  constitutional questions, ruling on, §§ 7.1–7.3
  debate, interruption by Chair of, § 6.4
  debate on appeal of Chair's ruling, § 15.13
  enacting clauses, time to offer motions relating to, §§ 11.1–11.3
  existing law, consistency of proposal with, § 7.5
  House action, anticipating, §§ 7.9–7.11
  interpretations of Senate procedure by, § 7.19
  "Madam Chairman," use of the term, § 5.3
  point of order, ruling on points not in issue, § 6.1
  recognition by, to oppose motion, §§ 12.12–12.14
  rescinding time limitation, § 7.12
  rulings to follow precedents, § 6.2
  sitting in executive session, § 7.18
Chairman pro tempore of the Committee, § 5.2
Chairman, rulings on
  ambiguity of amendment, § 8.5
  application or effect of proposed amendment, §§ 8.1–8.3
  consistency of amendments, §§ 8.6–8.8
  constitutionality of proposed amendment, § 8.10
  debate time on amendments, authority to allocate, § 8.11
  earlier rulings, clarification of, § 6.3
  hypothetical questions, §§ 7.6–7.8
  interpretation of amendment by, § 8.4
  legal effect of committee reports, § 7.16

Chairman, rulings on—Continued
  merits of proposed legislation, § 7.4
  points of order not in issue, § 6.1
  precedence, rulings to follow, § 6.2
  propriety of considering amendment identical to adopted bill, § 8.9
  sufficiency of committee reports, § 7.17
Close debate, timeliness of motion in Committee to, § 15.12
Committee reports
  Chair's rulings on legal effect of, § 7.16
  Chair's rulings on sufficiency of, § 7.17
Congressional Record
  expungement of objectionable words in, § 3.2
  extension and revision of remarks in, § 3.1
Constitutional question, Chair's rulings on, §§ 7.1–7.3
Constitutionality of proposed amendment, rulings by Chairman on, § 8.10
Debate and consideration in
  appeal of Chair's ruling, debate on, § 15.13
  calling Members to order, generally, § 17
  Chairman's authority to allocate debate time on amendment, § 8.11
  Chair's ruling, debate on appeal of, § 15.13
  close debate, timeliness of motion to, § 15.12
  enacting clauses, duration of debate on motion to strike, §§ 11.12, 13.1–13.3
  enacting clause, yielding time during debate on motion to strike, § 10.13
  exhibits, use in debate of, § 15.16
  floor manager, yielding in debate by, § 15.4
  hour rule, extension of time under, § 15.7
  Member recognized for pro forma amendment, yielding by, § 15.6

Debate and consideration in—Continued
  Member recognized to debate, yielding by, § 15.5
  motion to limit debate, effect of pendency of, §§ 11.10, 11.11
  motion to rise offered during time for debate, § 23.11
  offering motion to secure debate time, §§ 12.8–12.10
  point of order, debate on, § 15.3
  pro forma amendments during pendency of motion to rise and recommend striking enacting clause, § 13.10
  pro forma amendment, yielding by Member recognized for, § 15.6
  rising of Committee, debate continuing after interruption for, § 26.1
  scope on motions relating to enacting clauses, §§ 13.7–13.9
  Speaker, debate by, §§ 15.14, 15.15
  speaking more than once in general debate, § 15.8
  speaking more than once on amendment, §§ 15.9, 15.10
  time, computation of limitation on, §§ 16.1–16.4
  time, dividing debate, §§ 16.5, 16.6
  time, effect of expiration of, §§ 16.7–16.9
  time limitations on duration of debate, effect of, on motions relating to enacting clauses, §§ 13.4–13.6
  timeliness of motion to close debate, § 15.12
  unfinished business, consideration of, §§ 15.1, 15.2
  yielded time, offering motion to rise during, § 24.2
  yielding by Member recognized for pro forma amendment, § 15.6
  yielding by Member recognized to debate, § 15.5

Debate and consideration in—Continued
  yielding in debate by floor manager, § 15.4
Discharge, resolving into Committee after motion to, § 4.7
Division vote in Committee, offering motion to rise during, § 23.11
Enacting clause, effect of House rejection of Committee recommendation to strike, § 10.9
Enacting clause, motion to recommend striking
  adoption of amendment, in nature of substitute, effect of, §§ 11.6, 11.7
  amendment of bill, renewal of motion after, §§ 14.4, 14.6
  amendment, renewal of motion after rejection of, § 14.5
  Chairman's vote on, § 10.8
  closed rule, effect on qualification of, § 12.6
  committee chairman as proponent, qualification of, § 12.7
  debate, duration of, §§ 11.12, 13.1–13.3
  debate, effect of pendency of motion to limit, §§ 11.10, 11.11
  debate on, as affected by time limitations on debate on amendments, §§ 13.4–13.6
  debate, pro forma amendments during pendency of motion to rise and recommend striking enacting clause, § 13.10
  debate, scope of, §§ 13.7–13.9
  debate time, offering motion to secure, §§ 12.8–12.10
  debate, yielding time during, § 10.13
  divisibility of motion, § 10.5
  form of motion, §§ 10.1–10.3
  House action on Committee recommendation to strike, § 10.6
  motion to rise and recommend passage, after defeat of, § 11.9
Enacting clause, motion to recommend striking—Continued
  motion to rise, strike the enacting clause, and recommit bill to committee, §§ 10.10–10.12
  previous question, after ordering of, § 11.8
  privileged nature of motion, § 10.4
  pro forma amendments offered during pendency of motion to rise and recommend striking, § 13.10
  qualification, effect of closed rule on, § 12.6
  qualification of committee chairman as proponent, § 12.7
  qualification of Speaker as opponent, § 12.15
  qualification, presumptions as to proponent's, §§ 12.4, 12.5
  qualification to offer motion, generally, §§ 12.1–12.3
  qualification to oppose motion, § 12.11
  recognition by Chair of committee member as opponent, § 12.13
  recognition by Chair of member of opposition party, § 12.14
  recognition by Chair of opponent, § 12.12
  recommit, precedence of motion to, § 11.14
  rejection of Committee recommendation to strike, effect of, § 10.9
  renewal of motion, generally, §§ 14.1–14.3
  renewal of motion after amendment, § 14.4
  renewal of motion after amendment of bill, §§ 14.4, 14.6
  renewal of motion after rejection of amendment, § 14.5
  renewal of motion, effect of withdrawal of prior motion on, § 14.7
  renewal of motion on another legislative day, § 14.8

Enacting clause, motion to recommend striking—Continued
  resolution of disapproval, resolving clauses in, § 10.7
  resolutions, general applicability of motion to, § 10.7
  rising of Committee of the Whole, precedence of motion for, § 11.13
  rule permitting only committee amendments, motion offered under, §§ 11.4, 11.5
  Senate bill, striking enacting clause of, § 10.14
  Speaker as opponent, § 12.15
  strike, resumption of consideration in Committee of the Whole after House refusal to, § 26.2
  withdrawal of motion, § 10.15
  withdrawal of motion, effect of recognizing objection to, § 12.16
  withdrawal of prior motion, effect on renewal of motion of, § 14.7
Executive session, decision to sit in, by Chairman of the Committee, § 7.18
Floor manager, yielding in Committee in debate by, § 15.4
Hour rule, extension of time under, § 15.7
House as in Committee of the Whole, consideration of measures in, §§ 1.4, 1.5
Hypothetical questions, Chairman of the Committee ruling on, §§ 7.6–7.8
Mace, significance of, § 1.1
"Madam Chairman," use of term, § 5.3
Motions and requests in Committee
  generally, § 2
  adjourn, motion to, § 2.4
  close debate, timeliness of motion to, § 15.12
  division vote, motion to rise offered during, § 2.12
  previous question, motion for, § 2.6
  reading, motion to dispense with, § 2.11
  reconsider, motion to, § 2.5
Motions and requests in Committee—Continued
  return to section of bill for amendment, motion to, § 2.10
  rise and recommend, motion to, § 2.2
  table, motion to, §§ 2.7, 2.8
  unanimous-consent request, § 2.9
Objectionable words, expungement from Congressional Record of, § 3.2
Papers or letters, reading of
  putting question to Committee of the Whole, §§ 18.1, 18.2
  time to read, § 18.3
Parliamentary situations, Speaker's anticipation of, § 1.2
Personal privilege, Members rising in Committee to questions of, § 1.3
Points of order in the Committee
  debate on, § 15.3
  disposing of, before consideration of amendments, §§ 19.6, 19.7
  failure to raise point of order, effect of, § 20.12
  legislation on appropriation bill, §§ 20.11, 20.12
  motion to rise offered pending decision on, §§ 23.7, 23.8
  Ramseyer rule, based on violation of, §§ 19.3, 19.4
  reserving point of order of legislation on appropriation bill, timeliness of, § 20.11
  rising of Committee pending decision on, § 19.5
  scope of debate on, § 19.2
  scope of ruling on, § 19.1
Points of order in the Committee, timeliness of
  appeal of Chair's ruling on, § 20.9
  appropriation bill, against, § 20.10
  appropriation bill, reserving point of order based on legislation in, § 20.11

Points of order in the Committee, timeliness of—Continued
  conference, as to measure committed to, § 20.17
  debate, effect of commencement of, §§ 20.6, 20.7
  debate, effect of failure to obtain recognition to, § 20.8
  funds, as to diversion of appropriated, § 20.13
  germaneness, as to, § 20.14
  legislation on appropriation bill, reserving point of order against, § 20.11
  printing of bill and hearings, lack of, § 20.4
  quorum in standing committees, based on lack of, § 20.5
  Ramseyer rule, based on, §§ 20.1–20.3
  reading, as to effect of agreement to dispense with, § 20.15
  report on striking language from Senate bill, as to, § 20.16
  reserving point of order of legislation on appropriation bill, § 20.11
Previous question, motion for, § 2.6
Previous question, motion to strike enacting clause offered after ordering of, § 11.8
Pro forma amendment, time limitation on debate on, § 15.11
Pro forma amendment, yielding in Committee by Member recognized for, § 15.6
Pro forma amendments during pendency of motion to rise and recommend striking enacting clause, § 13.10
Questions of personal privilege, rising to, § 1.3
Quorum in the Committee
  motion to rise, quorum requirement, § 22.7
  motion to rise offered pending quorum count, § 23.5
Quorum, resolving back into Committee after reporting of, § 25.4
Ramseyer rule, point of order in the Committee based on
  generally, §§ 19.3, 19.4
  timeliness of, §§ 20.1–20.3
Reading, motion to dispense with, § 2.11
Reconsider, motion to, § 2.5
Requirement that motions be written, § 2.1
Resolution of disapproval, motions relating to resolving clauses in, § 10.7
Resolution of disapproval, resolving into Committee to consider, §§ 4.5, 4.6
Resolution, resolving into Committee pursuant to, § 4.1
Resolving into Committee
  automatic call of House on motion to, § 4.9
  consideration, motion to resolve as related to question of, § 4.10
  discharge, after motion to, § 4.7
  motion to resolve as related to question of consideration, § 4.10
  motion to resolve, automatic call of House on, § 4.9
  motions to resolve, recognition for, provided for by resolution, § 4.2
  motions to resolve, Speaker's discretion in recognizing for, § 4.3
  refusal to resolve, effect of, § 4.4
  resolution, resolving pursuant to, § 4.1
  resolutions of disapproval, resolving to consider, §§ 4.5, 4.6
  withdrawing motion to resolve, §§ 4.11, 4.12
  words taken down, resolving after ruling on, § 4.8
Rise and recommend, motion to, § 2.2
Rise, precedence of motion to amend over motion to, § 2.3

Rising of Committee
  amendments, effect of motion to rise on, § 21.4
  automatic rise pursuant to agreement, § 21.3
  ceremonial occasions, §§ 21.6, 21.7
  formal and informal rise, §§ 21.1, 21.2
  objectionable words, rise of Committee to report, §§ 17.2, 21.5
Rising of Committee, motion for
  debatability of, § 22.4
  division on amendment after rejection of motion, § 25.3
  enacting clause, precedence over motion to strike, § 23.13
  floor manager, control by, § 22.5
  form of motion, § 22.1
  motion to rise and resume on day certain, § 22.2
  precedence of motion to amend over, § 23.14
  privileged nature of, §§ 23.1–23.4
  quorum requirement as affecting, § 22.7
  requirement that motion be written, § 22.3
  time to rise, establishing, § 22.6
  voting on the motion, § 22.8
  withdrawal of motion, § 22.9
Rising of Committee, offering of motion for
  before commencement of teller vote, § 23.9
  during consideration of bill under special rule, § 23.12
  during offering of amendments, § 24.1
  during time for debate, § 23.10
  during yielded time, § 24.2
  quorum, pending count of, § 23.5
  point of order, pending decision on, §§ 23.7, 23.8
  privileged nature of, §§ 23.1–23.4
  while another Member has floor, § 23.6
Rising of Committee, proceedings after action on motion for
  Calendar Wednesday, on, § 25.5
  quorum, point of order based on lack of, § 25.2
  reporting to House, § 25.1
  resolving back into Committee after reporting a quorum, § 25.4
  vacating vote to rise, § 25.6
Rising of Committee, proceedings after resolving back into Committee
  continuation of debate interrupted by rise, § 26.1
  resumption of consideration of bill after House refusal to strike enacting clause, § 26.2
  teller vote, resumption of proceedings on, §§ 26.3–26.5
Senate bill, Committee of the Whole recommendation to strike enacting clause of, § 10.14
Senate procedure, interpretation by Chairman of the Committee of the Whole of, § 7.19
Speaker
  anticipation of parliamentary situation by, § 1.2
  motion to resolve, Speaker's discretion in recognizing for, § 4.3
Special rule, offering motion to rise during consideration of bill in Committee under, § 23.12
Strike enacting clause, Committee of the Whole recommendation to
  debate on, § 13
  divisibility of, § 10.5
  form of motion, §§ 10.1–10.3
  privileged nature of, § 10.4
  procedure for, § 12
  qualification to offer or oppose, § 12
  renewal of motion, § 14
  when in order, § 11

Table, motion to
  appeal from ruling of Chairman as subject to, § 9.8
  availability of motion in Committee, §§ 2.7, 2.8
Teller vote in the Committee
  motion to rise offered before a count begins, § 23.10
  refusal of tellers, effect of, § 9.4
  resumption after rising of the Committee of the Whole, §§ 26.3–26.5
Time, power of House to rescind limitations on, § 7.12
Unanimous-consent requests, availability in Committee of, § 2.9
Union Calendar legislation, consideration by House as in Committee of the Whole of, § 1.5
Vacating chair to put appeal from ruling by Chairman of the Committee of the Whole, § 9.7
Vacating vote for rising of Committee, § 25.6
Vote, division, motions offered during, § 2.12
Withdrawal of motion, effect of recognizing of objection to, § 12.16
Withdrawing motion to resolve into Committee, §§ 4.11, 4.12
Words taken down
  expungement from *Congressional Record* of objectionable words, § 3.2
  resolving into Committee after ruling on, § 4.8
Written, requirement that motions be, § 2.1

The Committee of the Whole

A. IN GENERAL

§ 1. Jurisdiction; House as in Committee of the Whole Distinguished

This chapter deals with the practice and procedure followed by the House when it resolves itself into the Committee of the Whole.(1) Discussed elsewhere are the requirements of a quorum in the Committee of the Whole,(2) procedures for acting on amendments in Committee of the Whole, including amendments to a concurrent resolution on the budget,(3) consideration and debate in Committee of the Whole,(4) and voting in Committee of the Whole.(5)

The term Committee of the Whole technically applies to two Committees, the Committee of the Whole House, which formerly considered business on the Private Calendar, and the Committee of the Whole House on the state of the Union, which considers business on the Union Calendar [that is, public bills].(6) There was little difference in the work of the two Committees except in the character of bills considered.(7) Since 1935,(8) bills on the Private Calendar have

---

1. For pre-1936 precedents: see 4 Hinds' Precedents §§ 4704–4791 and 8 Cannon's Precedents §§ 2318–2380 for precedents relating to the Committee of the Whole; 4 Hinds' Precedents §§ 4792–4868 and 8 Cannon's Precedents §§ 2381–2416, relating to subjects requiring consideration in the Committee of the Whole; 4 Hinds' Precedents §§ 4869–4922 and 8 Cannon's Precedents §§ 2417–2430 relating to reports from the Committee of the Whole.
2. Ch. 20, infra.
3. See Ch. 27, infra as to amendments, generally. For procedures relating to resolutions on the budget, see Ch. 13, supra.
4. Ch. 29, infra. See also §§ 15–18, infra.
5. Ch. 30, infra.
6. See 4 Hinds' Precedents § 4705 for the distinction between the two Committees of the Whole.
7. 4 Hinds' Precedents § 4705; *Deschler's Procedure* (93d Cong.), Ch. 19 § 1.1.
8. 79 Cong. Rec. 4480–89, 74th Cong. 1st Sess., Mar. 27, 1935. See Rule XXIV clause 6, *House Rules and Manual* §§ 893, 894 (1979).

been considered in the House *as in* Committee of the Whole, not, strictly speaking, in the Committee of the Whole.

When the House sits *as in* Committee of the Whole, it does not actually resolve into the Committee; it sits "as in" Committee of the Whole to allow consideration of bills under the five-minute rule without general debate.(9) This practice is permitted for the consideration of public bills by unanimous consent or by special order from the Committee on Rules.(10)

Because the Committee of the Whole House for the consideration of private bills is no longer of practical application, the term "Committee of the Whole" is used in this chapter to refer to the Committee of the Whole House on the state of the Union unless otherwise indicated.

Rule XXIII clause 3(11) provides that, "All motions or propositions involving a tax or charge upon the people, all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole. . . ."

This rule is applied not only to bills, but to amendments(12) and Senate amendments to House measures as well. As to the latter, Rule XX clause 1(13) provides that, "Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union, if, originating in the House, it would be subject to that point. . . ."

A view of long standing was that, to require consideration in a Committee of the Whole, a measure must have shown on its face that it fell within the requirements of Rule XXIII clause 3;(14) where the expenditure was a mere matter of speculation,(15) or where the bill might have involved a charge, but did not necessarily do so,(16) the rule did not apply. In ruling on a point of order as to whether a proposition involved a charge on the Treasury, the Speaker was confined to the provisions of the text and could not take into consideration personal knowledge not directly deducible therefrom.(17) In modern practice, a measure goes on the Union Calendar for consideration in the Committee of the Whole House on the state of the Union if an expenditure under the measure is probable.

---

(9) See 4 Hinds' Precedents §§ 4923–4935 and 8 Cannon's Precedents §§ 2431–2435 for pre-1936 precedents relating to the House as in Committee of the Whole; and Jefferson's Manual, *House Rules and Manual* §§ 424–427 (1979) for actions which may or may not be taken in the House as in Committee of the Whole.

(10) 4 Hinds' Precedents § 4923 and Jefferson's Manual, *House Rules and Manual* § 424 (1979).

(11) *House Rules and Manual* § 865 (1979).

(12) 4 Hinds' Precedents §§ 4793, 4794.

(13) *House Rules and Manual* § 827 (1979). See Ch. 32 § 5, infra, for discussion and precedents regarding House action on Senate amendments.

The Committee of the Whole observes the rules of proceeding in the House as far as applicable.(18) However, the procedure in the Committee of the Whole differs from procedures in the House in certain respects. In the Committee, (1) a quorum consists of 100 Members instead of a majority of the House membership;(19) (2) tellers may be requested by 20 Members instead of by 44 (one-fifth of a quorum of the House);(20) (3) a recorded vote may be requested by 25 (formerly 20) Members instead of by 44 (one-fifth of a quorum of the House);(21) (4) the constitutional yea and nay vote demanded by one fifth of the Members present,(22) or an "automatic" yea and nay vote as provided under Rule XV clause 4,(23) may not be taken; (5) amendments may not be withdrawn except by unanimous consent;(1) (6) debate may both be general and

---

14. 4 Hinds' Precedents §§ 4811–4817.
15. 4 Hinds' Precedents §§ 4818–4821; 8 Cannon's Precedents § 2388.
16. 4 Hinds' Precedents §§ 4809, 4810.
17. 8 Cannon's Precedents §§ 2386, 2391.
18. Rule XXIII clause 9, *House Rules and Manual* § 877 (1979); 4 Hinds' Precedents § 4737.
19. Rule XXIII clause 2(a), *House Rules and Manual* § 863 (1979). See also Jefferson's Manual, *House Rules and Manual* § 329 Note (1979).
20. Rule I clause 5, *House Rules and Manual* § 630 (1979); 5 Hinds' Precedents §§ 5985, 5986.
21. Rule XXIII clause 2(b) (adopted in the 96th Congress; see H. Res. 5, Jan. 15, 1979), *House Rules and Manual* (1979).
22. U.S. Const. art. I, § 5, clause 3, *House Rules and Manual* § 76 Note (1979); 4 Hinds' Precedents §§ 4722, 4723.
23. *House Rules and Manual* § 773 (1979).
1. Rule XXIII clause 5, *House Rules and Manual* § 870 (1979); Rule XIX, *House Rules and Manual* § 824 Note (1979); 5 Hinds' Precedents §§ 5221, 5753 (ftn.).

under the five-minute rule for amendments;(2) and (7) leave to extend remarks may be given only to the Member making the request, and not for the inclusion of extraneous material, general leaves being granted only by the House.(3)

Certain powers may not be exercised by the Committee of the Whole. For example, the Committee may not modify orders of the House,(4) raise the question of consideration,(5) transact proceedings regarding words demanded to be taken down in debate,(6) appoint, authorize, or discharge committees,(7) extend, even by unanimous consent, time for debate fixed by the House,(8) suspend the rule relating to admission to the floor,(9) recess without permission of the House,(10) instruct conferees,(11) or consider questions of privilege.(12)

The Committee of the Whole may rise informally to receive messages.(13)

Significance of Mace

§ 1.1 The position of the mace signifies whether the House is in session or whether it has resolved itself into the Committee of the Whole. When the mace is in the higher position at the Speaker's right the House is in regular session. When the Members begin deliberations in the Committee of the Whole, the mace is placed on the lower pedestal next to the desk of the Sergeant at Arms.

---

2. Rule XXIII clause 5, *House Rules and Manual* § 870 (1979).
3. 5 Hinds' Precedents §§ 7009, 7010, 8 Cannon's Precedents § 3488.
4. 4 Hinds' Precedents §§ 4712, 4713; 7 Cannon's Precedents § 786; and 8 Cannon's Precedents §§ 2321, 2323.
5. 7 Cannon's Precedents § 952 (on Calendar Wednesday); see also 5 Hinds' Precedents §§ 4973–4976.
6. 2 Hinds' Precedents §§ 1257–1259, 1348; 8 Cannon's Precedents §§ 2533, 2538, 2539. See Rule XIV clause 5, *House Rules and Manual* § 761 (1979), which states that objectionable words are taken down and read to the House. See also § 17, infra, for a discussion of Committee procedure when a Member objects to certain language.
7. 4 Hinds' Precedents §§ 4697, 4710.
8. Note to Rule XXIII clause 5, *House Rules and Manual* § 871 (1979); 5 Hinds' Precedents §§ 5212–5216; 8 Cannon's Precedents §§ 2321, 2550.
9. Note to Rule XXXII clause 1, *House Rules and Manual* § 919 (1979); 5 Hinds' Precedents § 7285.
10. 5 Hinds' Precedents §§ 6669–6671.
11. 8 Cannon's Precedents § 2320.
12. Note to Rule IX, *House Rules and Manual* § 666 (1979); 2 Hinds' Precedents § 1657.
13. *House Rules and Manual* § 330 (1979); 4 Hinds' Precedents § 4786.

On July 13, 1966, the 125th anniversary year of the use of the present mace,(14) Mr. Frank Horton, of New York, discussed the position of the mace as it relates to whether the House meets in regular session or in the Committee of the Whole.

> Mr. Horton: Mr. Speaker, today I should like to remind my distinguished colleagues of a historic anniversary. The year 1966 marks 125 years of consecutive use of the present mace in the House of Representatives. . . .
>
> The position of the mace signifies whether the House is in session or whether it has resolved itself into the Committee of the Whole House on the State of the Union. Visitors in the galleries today will notice that the mace is now in position at the Speaker's right, meaning that we are now in regular session. When we begin our deliberations in the Committee of the Whole, the mace will be placed on the lower pedestal next to the desk of the Sergeant at Arms. Any Member or visitor entering the House can tell at a glance if the House is in session or in committee.

Anticipation of Parliamentary Situations by Speaker

§ 1.2 The Speaker does not anticipate parliamentary situations which might arise in Committee of the Whole.

On June 29, 1973,(15) Speaker Carl Albert, of Oklahoma, refused to anticipate parliamentary situations which might arise in the Committee of the Whole.

> Mr. [Richard] Bolling [of Missouri]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 479 and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> H. Res. 479
>
> *Resolved*, That upon the adoption of this resolution it shall be in order to move, clause 6, rule XXI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9055) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes, and all points of order against said bill for failure to comply with the provisions of clauses 2 and 5, rule XXI are hereby waived. It shall be in order to consider without the intervention of any point of order the following amendment in the nature of a substitute for section 307 of the bill H.R. 9055.
>
> "Sec. 307. None of the funds herein appropriated under this Act or heretofore appropriated under any other Act may be expended to support directly or indirectly combat activities in, over, or from off the shores of Cambodia or in or over Laos by United States forces.". . . .
>
> Mr. [James J.] Pickle [of Texas]: Mr. Speaker, is it my understanding that this is an open rule? Do I further

---

(14) 112 Cong. Rec. 15403, 15404, 89th Cong. 2d Sess.

(15) 119 Cong. Rec. 22336, 22337, 93d Cong. 1st Sess.

understand that the gentleman from Georgia (Mr. Flynt) intends to offer the Eagleton amendment as a substitute which we had voted on in the last few days?

I understand from conversations which I have had at the Chair that it would be in order then to offer amendments to the substitute which will be offered by the gentleman from Georgia, and if any of those amendments were passed, it would be an amendment to that substitute.

If that substitute passes, there can be no more amendments and the vote will be up or down on that issue. Thus, if I am correct, then, Mr. Speaker, if the substitute is passed, then there will be a vote on that up or down, and there can be no amendment beyond that point, is that correct?

THE SPEAKER: The Chair will answer that this is a matter for the Chairman of the Committee of the Whole House on the State of the Union.

The Chair is not able at this time to take over the responsibility of making parliamentary rulings from the Chairman of the Committee of the Whole House.

MR. [DELBERT L.] LATTA [of Ohio]: Mr. Speaker, the Speaker is absolutely correct. This is something that can be taken up in the Committee of the Whole House on the State of the Union.

Consideration of Questions of Personal Privilege

§ 1.3 Members may not rise to a question of personal privilege in the Committee of the Whole.

On Apr. 18, 1944,(16) during consideration of H.R. 4254, extension of "Lend Lease," Chairman Warren G. Magnuson, of Washington, refused to permit a Member to raise a question of personal privilege because that issue may not be raised in the Committee of the Whole.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, can I raise a question of personal privilege in the Committee of the Whole, or do I have to wait until we go back into the House?

THE CHAIRMAN: That cannot be done in the Committee of the Whole.(17)

---

16. 90 CONG. REC. 3558, 78th Cong. 2d Sess. See also 115 CONG. REC. 24372, 91st Cong. 1st Sess., Sept. 4, 1969 (during consideration of H.R. 12085, extending the Clean Air Act); 105 CONG. REC. 11289, 86th Cong. 1st Sess., June 18, 1959; and *Deschler's Procedure* (93d Cong.), Ch. 11 § 13.6, for other instances of this principle.

17. Note: Under the modern practice, points of personal privilege may not be raised in the Committee of the Whole. The opposite was formerly true. See 3 Hinds' Precedents §§ 2540 et seq., which indicate that a matter of personal privilege could be claimed with reference to unparliamentary words. This former practice has been superseded by the procedure for taking down words in Committee of the Whole.

Consideration of Measures in House as in Committee of the Whole

§ 1.4 Where a joint resolution requiring consideration in the Committee of the Whole is called up by unanimous consent, it is considered in the House as in the Committee of the Whole and is subject to debate and amendment under the five-minute rule.(18)

On Sept. 26, 1968,(19) by unanimous consent House Joint Resolution 1461 was considered in the House as in Committee of the Whole and subject to debate and amendment under the five-minute rule.

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 1461) making continuing appropriations for the fiscal year 1969, and for other purposes.

The Clerk read the title of the joint resolution.

The Speaker:(20) Is there objection to the request of the gentleman from Texas? . . .

Mr. [Frank T.] Bow [of Ohio]: . . . I should like to make a parliamentary inquiry, Mr. Speaker.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Bow: If this joint resolution is now called before the House, will it be in order, when it is before the House, to offer a substitute in the manner in which I have discussed it?

The Speaker: The answer is that it would be in order. . . .

Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. Res. 1461

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (c) of section 102 of the joint resolution of June 29, 1968 (Public Law 90–366), is hereby further amended by striking out "September 30, 1968" and inserting in lieu thereof "October 12, 1968".

Mr. Mahon: Mr. Speaker, I ask unanimous consent that the joint resolution be considered in the House as in the Committee of the Whole.

The Speaker: Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. Mahon: Mr. Speaker, I move to strike out the last word. May I just add a few words. There are a number of agencies of the Government for which regular appropriations for 1969 have not been finally enacted by the Congress.

§ 1.5 A motion that a Union Calendar bill called up be considered

---

18. For more detailed discussion of consideration and procedure in the House as in Committee of the Whole, see Ch. 29 §§ 4, 70.
19. 114 Cong. Rec. 28374, 90th Cong. 2d Sess.
20. John W. McCormack (Mass.).

in the House as in the Committee of the Whole is not in order, although unanimous consent may be granted for that purpose; if such consent is not obtained, the House automatically resolves itself into the Committee of the Whole on Calendar Wednesday.

On July 12, 1939,[1] during consideration of H.R. 985, to authorize the Secretary of War to furnish markers for certain graves, Speaker William B. Bankhead, of Alabama, stated that a unanimous-consent request, but not a motion, to consider a Union Calendar bill in the House as in Committee of the Whole would be in order. After an objection was raised to the unanimous-consent request, the House automatically resolved itself into the Committee of the Whole.

> MR. [ANDREW J.] MAY [of Kentucky] (when the Committee on Military Affairs was called): Mr. Speaker, by direction of the Committee on Military Affairs, I call up the bill (H.R. 985) to authorize the Secretary of War to furnish certain markers for certain graves, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.
>
> The Clerk read the title of the bill.
>
> MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, reserving the right to object, will the gentleman explain the bill before we grant this request?
>
> MR. MAY: This is a bill to authorize the Secretary of War to furnish certain markers for graves of persons who are entitled to have them. Under the statute they are bronze markers or stone markers.
>
> MR. [SAM] HOBBS [of Alabama]: Mr. Speaker, I object.
>
> MR. MAY: To what is the gentleman objecting?
>
> MR. HOBBS: I am objecting to the consideration of the bill.
>
> MR. MAY: Then I move, Mr. Speaker, that the bill be considered in the House as in Committee of the Whole.
>
> THE SPEAKER: The Chair is of the opinion that could not be permitted under the rules of the House. The gentleman may submit a unanimous-consent request, but not a motion.
>
> The gentleman from Kentucky asks unanimous consent to consider the bill in the House as in Committee of the Whole. Is there objection to the request of the gentleman from Kentucky?
>
> MR. HOBBS: I object, Mr. Speaker.
>
> THE SPEAKER: This bill is on the Union Calendar.
>
> Accordingly, the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 985) to authorize the Secretary of War to furnish certain markers for certain graves, with Mr. Tarver in the chair.

---

[1] 84 CONG. REC. 8945, 76th Cong. 1st Sess.

§ 2. Motions and Requests Generally

Particular motions which may be entertained in the Committee of the Whole include certain motions relating to the enacting clause,(2) motions to amend, and motions to rise;(3) the Committee of the Whole may not entertain motions involving functions properly performed by the House such as motions to (1) adjourn,(4) (2) lay on the table,(5) (3) lay on the table an appeal of the Chair's ruling,(6) (4) limit general debate,(7) (5) close general debate,(8) (6) order the previous question,(9) (7) recess without permission of the House,(10) (8) recommit,(11) (9) reconsider,(12) (10) order a call of the House,(13) (11) effect a conference or instruct conferees,(14) or (12) expunge remarks from the Record.(15)

Requirement That Motions Be Written

§ 2.1 All motions must be in writing, if the demand is made, even a

---

(2) See §§ 10–14, infra.

(3) See §§ 22–25, infra.

(4) § 2.4, infra.

(5) § 2.7, infra. However, after general debate on a bill has been closed, a motion that the Committee of the Whole rise and report with a recommendation that the bill be laid on the table may be offered. See 4 Hinds' Precedents § 4778.

(6) § 2.8, infra.

(7) 8 Cannon's Precedents § 2554. However, debate under the five-minute rule may be limited (5 Hinds' Precedents § 5224), and general debate may be limited by unanimous consent in the absence of an order by the House (5 Hinds' Precedents § 5232; 8 Cannon's Precedents §§ 2553, 2554). The terms "limit" and "close" with reference to debate are frequently used interchangeably.

(8) 5 Hinds' Precedents § 5217.

(9) § 2.6, infra.

(10) Jefferson's Manual, *House Rules and Manual* § 586 (1979); 5 Hinds' Precedents §§ 6669–6671; and 8 Cannon's Precedents §§ 3357, 3362.

(11) 4 Hinds' Precedents § 4721 and 8 Cannon's Precedents § 2326. However, the Committee of the Whole may move to rise and report with the recommendation that a bill be recommitted, unless that motion is precluded by the terms of a special rule (see § 23.12, infra); such motion is only in order at the completion of reading the bill for amendment (4 Hinds' Precedents §§ 4761, 4762), and takes precedence over a motion to rise and report with the recommendation that a bill pass (8 Cannon's Precedents § 2329).

(12) § 2.5, infra.

(13) 8 Cannon's Precedents § 2369.

(14) 8 Cannon's Precedents § 2320. The subject of conferences is discussed more fully in Ch. 33, infra.

(15) § 3.2, infra.

motion that the Committee of the Whole do now rise.

On June 13, 1947,[16] during consideration of H.R. 3342, the cultural relations program of the State Department, Chairman Thomas A. Jenkins, of Ohio, sustained a point of order against a motion to rise:

> MR. [DANIEL A.] REED of New York: Mr. Chairman, I move that the Committee do now rise.
>
> MR. [KARL E.] MUNDT [of South Dakota]: Mr. Chairman, I make the point of order that the motion has not been submitted in writing.
>
> MR. REED of New York: Mr. Chairman, a preferential motion of this character does not have to be submitted in writing.
>
> THE CHAIRMAN: The point of order is sustained.

Motion to Rise and Recommend

§ 2.2 After defeat of a motion that the Committee of the Whole rise and report a bill to the House with the recommendation that it pass, a motion that the Committee rise and report the bill with the recommendation that the enacting clause be stricken out is in order.

On May 12, 1941,[17] during consideration of H.R. 3490, fixing the amount of annual payment by the United States toward defraying expenses of the District of Columbia government, Chairman William M. Whittington, of Mississippi, ruled that it would be in order to move that the Committee of the Whole rise and report a bill with the recommendation that the enacting clause be stricken out after defeat of a motion that the Committee rise and report a bill to the House with the recommendation that it pass:

> MR. [JENNINGS] RANDOLPH [of West Virginia]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 3490) to fix the amount of the annual payment by the United States toward defraying the expenses of the government of the District of Columbia; and pending that, I ask unanimous consent that debate be limited to 2 hours.

After completion of general debate and reading of the bill for amendment under the five-minute rule, the manager of the bill, Mr. Randolph, moved as follows:

> Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment with the recommendation that the amendment be agreed to and that the bill as amended do pass. . . .

---

[16] 93 CONG. REC. 6998, 80th Cong. 1st Sess. See 96 CONG. REC. 1693, 81st Cong. 2d Sess., Feb. 8, 1950, for another illustration of this principle.

[17] 87 CONG. REC. 3917, 3938, 3939, 77th Cong. 1st Sess.

Mr. [Malcolm C.] Tarver [of Georgia]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Tarver: If this motion to report the bill favorably does not carry, it would then be in order to offer a motion to report the bill with the recommendation that the enacting clause be stricken out.

The Chairman: The bill would still be in the Committee, and such a motion would be in order.

Precedence of Motion to Amend Over Motion to Rise and Report

§ 2.3 A motion to amend in the Committee of the Whole takes precedence over a motion to rise and report a bill with recommendations.

On July 27, 1937,(18) during consideration of H.R. 7730, to authorize the President to appoint certain administrative assistants, Chairman Wright Patman, of Texas, stated that a motion to amend in the Committee of the Whole takes precedence over a motion to rise and report a bill with recommendations:

Mr. [J.W.] Robinson of Utah and Mr. [Ross A.] Collins [of Mississippi] rose.

Mr. Robinson of Utah: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

Mr. [John] Taber [of New York]: Mr. Chairman, I make the point of order against the motion that it is not in order at this stage of the proceedings.

The Chairman: The Chair may state that motions to amend take precedence over a motion that the Committee rise.

The gentleman from Mississippi offers an amendment, which the Clerk will report.

Motion to Adjourn

§ 2.4 A motion to adjourn is not in order in the Committee of the Whole.

On Feb. 7, 1964,(19) during consideration of H.R. 7152, the Civil Rights Act of 1963, Chairman Eugene J. Keogh, of New York, held that the motion to adjourn would not lie while the House was in the Committee of the Whole:

Mr. [Jamie L.] Whitten [of Mississippi]: Mr. Chairman, I wonder if it would be in order to move that the House do now adjourn, while the coalition works out the substitute amend-

---

18. 81 Cong. Rec. 7699, 75th Cong. 1st Sess.

19. 110 Cong. Rec. 2505, 88th Cong. 2d Sess. See also 107 Cong. Rec. 9619, 87th Cong. 1st Sess., June 6, 1961; 96 Cong. Rec. 2162, 2218, 81st Cong. 2d Sess., Feb. 22, 1950; and 95 Cong. Rec. 5616, 81st Cong. 1st Sess., May 4, 1949, for other examples of this principle.

ment? Would it be in order to move that the House do now adjourn?

The Chairman: A motion to adjourn, of course, does not lie while the House is in the Committee of the Whole House.

Mr. Whitten: I merely wished to know if it were possible under the circumstances.

Mr. Chairman, I move that the Committee do now rise, while the coalition works out a settlement of the differences.

The Chairman: The question is on the motion of the gentleman from Mississippi [Mr. Whitten].

The motion was rejected.

Motion to Reconsider

§ 2.5 The motion to reconsider is not in order in the Committee of the Whole; however, proceedings may be vacated by unanimous consent after business has been transacted.

On Mar. 12, 1945,[20] during consideration of H.R. 2023, to continue the Commodity Credit Corporation, Chairman R. Ewing Thomason, of Texas, ruled that a motion to reconsider is not in order in the Committee of the Whole. However, after the transaction of business, the Committee agreed to a unanimous-consent request to vacate certain proceedings:

Mr. [Jesse P.] Wolcott [of Michigan]: Mr. Chairman, I offer an amendment, which is at the Clerk's desk.

The Clerk read as follows:

> Amendment offered by Mr. Wolcott: On page 1, lines 5 and 6, after the word "thereof" in line 5, strike out the sign and figure "$5,000,000,000" and insert in lieu thereof the sign and figure "$4,000,000,000."

Mr. [Brent] Spence [of Kentucky]: . . . The Commodity Credit Corporation agrees to it. I think it should be adopted. I am sure there will be no objection to it.

The Chairman: The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

> Sec. 2. Subsection (c) of section 381 of the Agricultural Adjustment Act of 1938 (52 Stat. 67) is amended to read as follows:
>
> "(c) During the continuance of the present war and until the expiration of the 2-year period. . . ."

Mr. Spence: Mr. Chairman, I misunderstood the amendment offered by the gentleman from Michigan. I had no right to agree to that amendment. The amendment which I thought the gentleman from Michigan [Mr. Wolcott] submitted, and the only one that he ever submitted to me, was an amendment to increase dairy payments to $568,000,000, and to increase the noncrop program from $60,000,000 to $120,000,000. That was a clear misunderstanding on my part. . . .

Mr. Chairman, I ask the committee,

---

[20] 91 Cong. Rec. 2042, 2043, 79th Cong 1st Sess. See also 112 Cong. Rec. 18416, 89th Cong. 2d Sess., Aug. 5, 1966, for another example of this procedure.

under the circumstances, to reconsider its action.

Mr. Wolcott: There will be no objection on my part.

The Chairman: Without objection. the action by which the amendment was agreed to will be vacated.

Mr. [Robert F.] Rich [of Pennsylvania]: Reserving the right to object, I want to ask the gentleman a question.

The Chairman: The gentleman from Pennsylvania reserves the right to object. . . .

Is there objection?

Mr. Rich: Mr. Chairman, I object—until we can get some information on the subject.

Mr. [Roy O.] Woodruff of Michigan: Mr. Chairman, I demand the regular order.

The Chairman: The regular order is that the gentleman from Pennsylvania has objected to the consent request of the gentleman from Kentucky.

Mr. Spence: Mr. Chairman, I move to reconsider the action of the Committee by which the amendment was agreed to.

The Chairman: Such a motion is not in order in the Committee of the Whole.

Mr. Wolcott: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Wolcott: Inasmuch as business has been transacted since the original request was submitted by the gentleman from Kentucky, would it be in order for me to propound a consent request that the proceedings by which the amendment was adopted be vacated?

The Chairman: Such a request would be in order, and the Chair recognizes the gentleman for that purpose.

Mr. Wolcott: Then, Mr. Chairman, I ask unanimous consent that the proceedings by which the amendment was adopted reducing the amount from $5,000,000,000 to $4,000,000,000 be vacated. . . .

The Chairman: Is there objection to the request of the gentleman from Michigan?

There was no objection.

Motion for Previous Question

§ 2.6 The motion for the previous question is not in order in the Committee of the Whole.

On Nov. 17, 1967,[1] during consideration of H.R. 13893, foreign aid appropriations, fiscal 1968, Chairman Charles M. Price, of Illinois, held that the motion for the previous question is not in order in the Committee of the Whole:

> Mr. [Paul C.] Jones of Missouri: Mr. Chairman, reserving the right to object, is it in order to move the previous question on this amendment

---

[1] 113 Cong. Rec. 32964, 90th Cong. 1st Sess. See 112 Cong. Rec. 18115, 89th Cong. 2d Sess., Aug. 3, 1966; and 110 Cong. Rec. 457, 88th Cong. 2d Sess., Jan. 16, 1964, for other examples.

now, inasmuch as we have had considerable debate on it, and I have been trying to receive recognition for approximately half an hour, but now I am willing to forgo my time.

The Chairman: The Chair will state that the moving of the previous question is not in order in the Committee of the Whole.

Motion to Table

§ 2.7 The motion to table is not in order in the Committee of the Whole.

On Oct. 6, 1966,(2) during consideration of H.R. 13161, the elementary and secondary education bill, Chairman Daniel D. Rostenkowski, of Illinois, ruled that the motion to table is not in order in the Committee of the Whole:

Mr. [Albert W.] Watson [of South Carolina]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Watson: On page 76, line 15, after "1967" change the period to a semicolon and insert: "*Provided, however*, That no funds shall be expended hereunder so long as the present United States Commissioner of Education occupies that office."

Mr. [Carl D.] Perkins [of Kentucky]: Mr. Chairman, a point of order. The amendment is not germane and is subject to a point of order. . . .

The Chairman: . . . The Chair is of the opinion that the amendment is germane to the bill, and overrules the point of order.

The gentleman from South Carolina is recognized in support of his amendment.

Mr. Perkins: Mr. Chairman, I move that the amendment be tabled.

The Chairman: That motion is not in order in the Committee of the Whole.

§ 2.8 The motion to lay on the table an appeal from a decision of the Chair is not in order in the Committee of the Whole.

On Oct. 19, 1945,(3) after ruling that a proposed amendment was not germane to H.R. 4407, reducing appropriations, Chairman Fritz G. Lanham, of Texas, held that a motion to table a decision of the Chair is not in order in the Committee of the Whole.

Mr. [John E.] Rankin [of Mississippi]: Mr. Chairman, with all the deference in the world for the distinguished Chairman, whom we all love, I respectfully appeal from the ruling of the Chair.

Mr. [Emmet] O'Neal [of Kentucky]: Mr. Chairman, I move to lay the appeal on the table.

Mr. Rankin: Mr. Chairman, the appeal cannot be laid on the table. The Committee has a right to vote on it.

---

2. 112 Cong. Rec. 25583, 89th Cong. 2d Sess.

3. 91 Cong. Rec. 9870, 79th Cong. 1st Sess.

THE CHAIRMAN: The motion to lay on the table is not in order in the Committee. . . .

The question is: Shall the decision of the Chair stand as the judgment of the Committee of the Whole?

The question was taken; and the Chair announced that the "ayes" had it.

So the decision of the Chair stands as the judgment of the Committee of the Whole.(4)

Unanimous-consent Requests

§ 2.9 A unanimous-consent request that the Clerk of the House, in the engrossment of the bill, be instructed to correct section numbers is not in order in the Committee of the Whole; such permission must be obtained in the House.

On Oct. 3, 1962,(5) during consideration of H.R. 13273, the rivers and harbors authorization bill, Chairman Francis E. Walter, of Pennsylvania, declared that a unanimous-consent request to instruct the Clerk to correct section numbers in the engrossment of a bill would have to be done in the House rather than the Committee of the Whole:

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Chairman, so as to avoid any possible confusion in the numbering of these sections, I ask unanimous consent that the Clerk of the House be instructed so to number these sections serially that they are all in proper sequence.

THE CHAIRMAN: The gentleman's request will have to be made in the House.

Motion to Return to Section for Amendment

§ 2.10 In the Committee of the Whole a Member must obtain unanimous consent to return to a section of a bill to offer an amendment; a motion to do so is not in order.

On Aug. 18, 1944,(6) during consideration of H.R. 5125, the surplus property bill, Chairman R. Ewing Thomason, of Texas, stated that a Member must obtain unanimous consent to return to a section of a bill after that section has been passed, and indicated that such action cannot be taken by motion:

MR. [CARTER] MANASCO [of Alabama]: Mr. Chairman, I make a point of order against the amendment on the ground that we have passed the section to which the amendment applies.

MR. [BEN F.] JENSEN [of Iowa]: Then, Mr. Chairman, I ask unanimous

---

4. See also 81 CONG. REC. 7700, 75th Cong. 1st Sess., July 27, 1937, for another illustration of this rule.

5. 108 CONG. REC. 21884, 87th Cong. 2d Sess.

6. 90 CONG. REC. 7122, 78th Cong. 2d Sess.

consent that we return to section 7 for the purpose of offering an amendment.

The Chairman: The gentleman from Iowa asks unanimous consent to return to section 7 for the purpose of offering an amendment. Is there objection?

Mr. Manasco: I object, because we returned to that once and we want to finish this bill this week if we can.

Mr. Jensen: Mr. Chairman, I would have offered this amendment earlier but I call attention to the fact that the reading of the bill was very rapid and I did not have a chance; I did not have the opportunity.

The Chairman: The gentleman can return to a former section only with the unanimous consent of the Committee and the Committee has not given it.

Mr. Jensen: Then, Mr. Chairman, I plead with the chairman of the committee to let this amendment be considered. It is an important amendment. . . .

Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Jensen: What course can I take now to get this amendment before the House? I am throwing myself on the mercy of the Chair?

The Chairman: The gentleman has asked unanimous consent to return to the section; the Committee has declined to grant it. The Chair does not know what further the gentleman can do.

Motion to Dispense With Reading

§ 2.11 A motion to dispense with the full reading of a bill in the Committee of the Whole is not in order.

On June 4, 1951,[7] the House resolved itself into the Committee of the Whole for the consideration of the District of Columbia Law Enforcement Act of 1951 (H.R. 4141). The Chairman[8] stated that without objection the first [full] reading of the bill would be dispensed with. Objection was heard from Mr. Herman P. Eberharter, of Pennsylvania, and the Chairman ordered the Clerk to read the bill.

During the reading of the bill a parliamentary inquiry was raised:

> Mr. [W. Sterling] Cole of New York (interrupting the reading of the bill): Mr. Chairman, a parliamentary inquiry.
>
> The Chairman: The gentleman will state it.
>
> Mr. Cole of New York: Mr. Chairman, is it possible under the rules of the Committee of the Whole to by motion dispense with the further reading of a bill?
>
> The Chairman: The Chair will say that it requires unanimous consent to suspend the further reading of the bill.
>
> Mr. Cole of New York: It is not possible to do that by motion?

---

[7] 97 Cong. Rec. 6099-6101, 82d Cong. 1st Sess.

[8] Herbert C. Bonner (N.C.).

THE CHAIRMAN: That motion is not privileged.[9]

Motions Offered During Vote

§ 2.12 The motion that the Committee of the Whole rise is not preferential while the Committee is dividing on a question.

On Dec. 8, 1944,[10] during consideration in Committee of the Whole of H.R. 5587, the first supplemental appropriations bill, several actions were taken in rapid succession:

MR. [JOHN] TABER [of New York]: Mr. Chairman, I move that all debate on this amendment do now close.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I trust the gentleman will not press that motion.

THE CHAIRMAN:[11] The question is on the motion offered by the gentleman from New York [Mr. Taber].

The question was taken, and the Chair announced that the ayes had it.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I ask for a division.

THE CHAIRMAN: Those in favor of the motion will rise and be counted.

MR. RANKIN: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The Chair calls the attention of the gentleman to the fact that we are in the middle of a vote.

MR. RANKIN: Mr. Chairman, I am offering a preferential motion. I move that the Committee do now rise.

THE CHAIRMAN: The Chair will ask the gentleman to reconsider, because we are in the midst of taking a vote on a motion at this time.

MR. RANKIN: Mr. Chairman, I am offering a preferential motion now.

THE CHAIRMAN: The Chair cannot recognize the gentleman at this time for that purpose.

Parliamentarian's Note: The preferential motion to rise is in order until the count has commenced. See 88 CONG. REC. 2374, 77th Cong. 2d Sess., Mar. 12, 1942; 88 CONG. REC. 5169, 77th Cong. 2d Sess., June 11, 1942.

---

[9] *Parliamentarian's Note:* In this instance the Committee of the Whole directed the reading in full of the bill on its first reading. The bill was read by title only on the next day when the Committee of the Whole reconvened to resume consideration of it. Although the procedure followed was somewhat unorthodox, it illustrates the point that any Member may demand a full reading of a bill before general debate thereon begins, provided the bill has not previously been read in full. The motion to dispense with the full reading could be made privileged, however, by means of a special rule reported from the Committee on Rules, for example; or the reading in full could be dispensed with by such a rule. Moreover, the motion to rise would be in order, to permit the House, by motion, to dispense with reading.

[10] 90 CONG. REC. 9066, 78th Cong. 2d Sess.

[11] Herbert C. Bonner (N.C.).

§ 3. Remarks in the Congressional Record

Extension and Revision of Remarks

§ 3.1 The House and not the Committee of the Whole controls the Congressional Record; for this reason the Committee can neither hold the Record open for later insertions nor permit inclusion of extraneous material. Thus, a request that all Members be permitted five days to revise and extend their remarks on a particular subject is not in order in the Committee of the Whole.

On Sept. 19, 1967,[12] during consideration of H.R. 6418, Partnership for Health Amendments, 1967, Chairman Jack B. Brooks, of Texas, stated that the Committee of the Whole cannot hold the *Congressional Record* open for later insertions because that authority is exercised by the House:

> MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Chairman . . . I ask unanimous consent that all Members have 5 legislative days in which to revise and extend . . .
>
> MR. [BURT L.] TALCOTT [of California]: Mr. Chairman, I object.
>
> THE CHAIRMAN: That request is properly made in the House and not in Committee of the Whole. Objection is not necessary.[13]

Expungement of Objectionable Words

§ 3.2 A motion to expunge words from the Congressional Record is not in order in the Committee of the Whole.

On Feb. 18, 1941,[14] Chairman Warren G. Magnuson, of Washington, stated that the House, not the Committee of the Whole, determines whether to expunge words which have been objected to by a Member in the Committee.[15]

> MR. [CLARE E.] HOFFMAN [of Michigan]: All we ask in this case is what we do not expect to get, that you stick by

---

[12] 113 CONG. REC. 26032, 90th Cong. 1st Sess.

[13] Although general leave to print may be granted only by the House, a Member, by unanimous consent, may be given leave to extend his remarks in the Committee of the Whole. 5 Hinds' Precedents §§ 7009, 7010 and 8 Cannon's Precedents § 3488. See also Ch. 5, supra.

[14] 87 CONG. REC. 1126, 77th Cong. 1st Sess.

[15] Compare 5 Hinds' Precedents § 6987 for a holding that while the Committee of the Whole does not control the Record, the Chairman, in the preservation of order, may direct the exclusion of disorderly words spoken by a Member after he has been called to order.

the rules of the game you established last year. That is not too much to expect if we adhere to the agreement of last year. This would give us in Michigan the Representative to which we are entitled. But we know what you are going to do. You know what is going to happen. You are going to skin us, are you not? And we have no way to prevent it.

Mr. [Robert F.] Rich [of Pennsylvania]: I demand that the gentleman's words be taken down. . . .

The Chairman: . . . The Clerk will read the words objected to.

The Clerk read as follows:

> You know what is going to happen. You are going to skin us, are you not; and we have not any way to help it.

Mr. Rich: Mr. Chairman, I ask that those words be expunged from the Record. They are not going to skin anybody around here.

The Chairman: That is a matter for the House to decide. The Committee will rise.

Parliamentarian's Note: The words could have been withdrawn by unanimous consent, but not by motion.

§ 4. Resolving Into Committee of the Whole

The House may resolve into the Committee of the Whole pursuant to a standing rule, a resolution (i.e., a special rule from the Committee on Rules)(16) or on motion.(17) The House automatically resolves

---

16. § 4.1, infra. See 4 Hinds' Precedents § 3214, and 7 Hinds' Precedents §§ 783, 794 for earlier precedents on resolving into the Committee of the Whole pursuant to special order.

17. Rule XVI clause 9, *House Rules and Manual* § 802 (1979), permits a motion to resolve into the Committee of the Whole to consider bills raising revenue or general appropriation bills anytime after the Journal is read.

Prior to the amendment to Rule XI clause 4(a) [*House Rules and Manual* § 726 (1979)] effective Jan. 3, 1975 (H. Res. 988, 93d Cong. 2d Sess., 120 Cong. Rec. 34469, 34470), to eliminate the authority of the Committee on Ways and Means to report as privileged bills raising revenue, the motion to resolve into the Committee of the Whole to consider a general appropriation bill were of equal privilege (4 Hinds' Precedents §§ 3075, 3076). However, the privileged nature of the motion under Rule XVI clause 9 with respect to revenue bills was derived from and was dependent upon the former privilege conferred upon the Committee on Ways and Means under Rule XI clause 4(a) to report revenue measures to the House at any time (4 Hinds' Precedents § 3076).

Rule XXIV clause 5, *House Rules and Manual* § 891 (1979), permits entertainment of a motion to resolve into the Committee of the Whole after one hour of consideration of bills from committees. See 4 Hinds' Precedents §§ 3072 et seq. and 6 Cannon's into the Committee of the Whole in certain situations.(18) Thus, when a bill on the Union Calendar is called up at the proper time on Calendar Wednesday, the House automatically resolves into the Committee of the Whole.(1) And when a Union Calendar bill is the unfinished business on Calendar Wednesday the Speaker declares the House in Committee of the Whole without motion.(2)

The motion to resolve into the Committee of the Whole is neither debatable(3) nor amendable;(4) it may not be laid on the table or indefinitely postponed,(5) and the previous question may not be demanded on it.(6)

The motion to resolve into the Committee of the Whole is listed seventh in the daily order of business, but the motion is usually given more preferential status by the adoption of a special order reported from the Committee on Rules providing for the consideration of a bill "upon adoption of this resolution."(7)

Precedents §§ 716 et seq. for earlier precedents relating to timeliness of the motion to resolve into the Committee of the Whole for consideration of revenue or general appropriation measures, and Jefferson's Manual, *House Rules and Manual* § 328 (1979), for the form of a motion to resolve into the Committee of the Whole.

Although it is the usual practice to designate the subject to be considered, the House on occasion has resolved into the Committee without designating a specific subject. See 8 Cannon's Precedents § 2318.

The motion to go into the Committee of the Whole is in order on District Mondays. *House Rules and Manual* § 802 (1979); 6 Cannon's Precedents §§ 716–718; and 7 Cannon's Precedents §§ 876, 1123.

18. See § 4.8, infra, for discussion of resolving into Committee after a ruling by the Speaker on words taken down in Committee; and see § 10.9, infra, for a discussion of procedure in the House after rejecting a recommendation of the Committee to strike the enacting clause.

1. *House Rules and Manual* § 898 (1979); 7 Cannon's Precedents § 939.

2. *House Rules and Manual* § 898 (1979); 7 Cannon's Precedents §§ 940, 942.

3. *House Rules and Manual* § 802 (1979); 4 Hinds' Precedents § 3078; and 6 Cannon's Precedents § 716.

4. *House Rules and Manual* § 802 (1979); 4 Hinds' Precedents § 3078; and 6 Cannon's Precedents §§ 723–725.

5. *House Rules and Manual* § 802 (1979); 6 Cannon's Precedents § 726.

6. *House Rules and Manual* § 802 (1979); 4 Hinds' Precedents §§ 3077–3079.

7. Rule XXIV clause 1, *House Rules and Manual* § 878 (1979).

Resolving Pursuant to Resolution

§ 4.1 Where the House adopts a resolution providing for the immediate consideration of a measure in Committee of the Whole, the House resolves itself into Committee without a motion being made from the floor.

On Mar. 17, 1970,(8) the House resolved itself into the Committee of the Whole without a motion from the floor after adoption of a resolution providing for consideration of a measure in the Committee:

> MR. [B. F.] SISK [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 874 and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> H. RES. 874
>
> *Resolved,* That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.
>
> THE SPEAKER:(9) The gentleman from California (Mr. Sisk) is recognized for 1 hour. . . .
>
> MR. SISK: Mr. Speaker, I move the previous question on the resolution.
>
> The previous question was ordered.
>
> The resolution was agreed to.
>
> A motion to reconsider was laid on the table.
>
> THE SPEAKER: Pursuant to House Resolution 874, the House resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat.
>
> Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill S. 858, with Mr. Flynt in the chair.

Recognition for Motions to Resolve Provided for by Resolution

§ 4.2 The recognition by the Speaker of a designated Member to move that the House resolve

---

(8) 116 CONG. REC. 7690, 7691, 91st Cong. 2d Sess. See also 118 CONG. REC. 28829, 28834, 92d Cong. 2d Sess., Aug. 17, 1972, for another illustration.

(9) John W. McCormack (Mass.).

into the Committee of the Whole to consider a particular bill may be provided for by resolution.

On Sept. 27, 1965,(10) after the House agreed to a motion discharging a resolution from the Committee on Rules, Speaker John W. McCormack, of Massachusetts, recognized a Member who had been designated by the resolution to move that the House resolve itself into the Committee of the Whole for consideration of H.R. 4644, the District of Columbia home rule bill:

> THE SPEAKER: The Clerk will report the resolution. [H. Res. 515].
>
> The Clerk read as follows:
>
> *Resolved,* That upon the adoption of this resolution the Speaker shall recognize Representative Abraham J. Multer, or Representative Carlton R. Sickles, or Representative Charles McC. Mathias, Junior, or Representative Frank J. Horton to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4644) to provide an elected mayor, city council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and continue not to exceed five hours, to be equally divided and controlled by one of the aforementioned Members and a Member who is opposed to said bill to be designated by the Speaker, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. . . .
>
> THE SPEAKER: The question is on agreeing to the resolution.
>
> MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, on that I demand the yeas and nays.
>
> The yeas and nays were ordered.
>
> The question was taken; and there were—yeas 223, nays 179, not voting 30. . . .
>
> So the resolution was agreed to. . . .
>
> THE SPEAKER: . . . The Chair recognizes the gentleman from New York [Mr. Multer].
>
> MR. [ABRAHAM J.] MULTER: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4644) to provide an elected Mayor, City Council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes.

Speaker's Discretion in Recognizing for Motions to Resolve

§ 4.3 Where two bills remain undisposed of by the Committee of the Whole, the Speaker, by recognizing for motions to resolve into the Committee for further consideration of those bills, determines in his discretion the order of consideration of that unfinished business, subject to the will of the House as manifested by the vote on the motion.

---

[10] 111 CONG. REC. 25185–87, 89th Cong. 1st Sess.

On Nov. 2, 1971,[11] Speaker Carl Albert, of Oklahoma, indicated that the Chair has discretion to determine the order of consideration of unfinished business by recognizing for motions to resolve into the Committee of the Whole:

> MR. [F. EDWARD] HÉBERT [of Louisiana]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. HÉBERT: As I understand the situation as of now, and as related to tomorrow, our understanding is that a continuation of consideration of the bill H.R. 2 will be the first order of business when the House meets tomorrow?
>
> THE SPEAKER: Not under the program, the Chair will answer. There are two unfinished matters pending before the House. One is the Higher Education Act, which has been the unfinished business for several days. It is a matter of discretion of the Chair, and the Chair would like to discuss this matter with all parties concerned.
>
> MR. HÉBERT: I hope the Chair will, because it was my understanding this would be the first order of business tomorrow. That was the reason the committee rose, in deference to the wishes of the Chair.
>
> THE SPEAKER: The Chair will take that up with parties concerned.

Effect of Refusal to Resolve

§ 4.4 Although the House may have agreed that an appropriation bill is to take precedence over other legislation, the House may reach the legislation of lesser privilege by rejecting the motion to resolve into the Committee of the Whole to consider the appropriation bill.

On May 9, 1950,[12] during consideration of H.R. 7786, the general appropriations bill, 1951, Speaker pro tempore John W. McCormack, of Massachusetts, indicated that the House could reach legislation of lesser privilege by rejecting the motion that the House resolve itself into the Committee of the Whole on the appropriations bill.

The House had previously agreed by unanimous consent that consideration of the appropriations bill would take precedence over all business except conference reports. However, Mr. Clare E. Hoffman, of Michigan, sought prior consideration of a resolution disapproving of a reorganization plan.

> MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7786) making appro-

---

[11] 117 CONG. REC. 38693, 92d Cong. 1st Sess.

[12] 96 CONG. REC. 6720–24, 81st Cong. 2d Sess.

priations for the support of the Government for the fiscal year ending June 30, 1951, and for other purposes.

Mr. Hoffman of Michigan: Mr. Speaker, I make the point of order that the House is not proceeding in the regular order because under section 205a of the Reorganization Act, which is Public Law 109 of the Eighty-first Congress, first session, any Member of the House is privileged, and this is a highly privileged motion, to make the motion that the House proceed to the consideration of House Resolution 516.

The gentleman from Michigan being on his feet to present this highly privileged motion, the regular order is that he be recognized for that purpose that the motion be entertained and the question put before the House, and my motion is that the House proceed to the consideration of House Resolution 516.

The Speaker Pro Tempore: That is the resolution disapproving one of the reorganization plans?

Mr. Hoffman of Michigan: That is right, House Resolution 516 disapproving plan No. 12. . . .

The Speaker Pro Tempore: Does the gentleman from Texas desire to be heard on the point of order?

Mr. Mahon: Mr. Speaker, on April 5, 1950, as shown at page 4835 of the daily Record of that day, the chairman of the Committee on Appropriations, the gentleman from Missouri [Mr. Cannon] asked and received unanimous consent that the appropriation bill should have the right-of-way over other privileged business under the rules until disposition, with the exception of conference reports. Therefore, I believe the regular order would be to proceed with the further consideration of H.R. 7786.

Mr. Speaker, I believe that the Record would speak for itself. . . .

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, may I be heard on the point of order?

The Speaker Pro Tempore: The Chair will hear the gentleman.

Mr. Rankin: I was going to say that if this is of the highest constitutional privilege it comes ahead of the present legislation.

The Speaker Pro Tempore: The Chair is prepared to rule. . . .

The question involved is not a constitutional question but one relating to the rules of the House and to the Legislative Reorganization Act of 1949 which has been alluded to by the gentleman from Michigan and other Members when addressing the Chair on this point of order. The Chair calls attention to the language of paragraph (b) of section 201 of title II of the Reorganization Act of 1949 which reads as follows: "with full recognition of the constitutional right of either House to change such rules so far as relating to procedure in such House at any time in the same manner and to the same extent as in the case of any other rule of such House."

It is very plain from that language that the intent of Congress was to recognize the reservation to each House of certain inherent powers which are necessary for either House to function to meet a particular situation or to carry out its will.

On April 5, the gentleman from Missouri [Mr. Cannon], chairman of the Committee on Appropriations, submitted a unanimous-consent request to the House, which was granted, which has the force of a rule, and which relates to the rules of the House governing the consideration of the omnibus appropriation bill while it is before the House and, of course, incidentally affecting other legislation. The consent request submitted by the gentleman from Missouri was "that the general appropriation bill for the fiscal year 1951 have right-of-way over all other privileged business under the rules until disposition, with the exception of conference reports."

That request was granted by unanimous consent. On the next day the gentleman from Missouri [Mr. Cannon], in correcting and interpreting the consent request granted on April 5, submitted a further unanimous-consent request.

The daily Record shows, on page 4976, April 6, that the gentleman from Missouri [Mr. Cannon] said:

> Mr. Speaker, on page 4835 of the daily Record of yesterday, the first column carrying the special order made by the House last night reads that the general appropriation bill shall be a special order privileged above all other business of the House under the rule until disposition. The order made was until final disposition. I ask unanimous consent that the Record and Journal be corrected to conform with the proceedings on the floor of the House yesterday.

The Record further shows that the Speaker put the request and there was no objection.

Mr. Rankin: Mr. Speaker, a parliamentary inquiry. . . .

The Speaker Pro Tempore: The Chair recognizes the gentleman.

Mr. Rankin: We for the first time this year have all the appropriations in one bill. Now, if they drag out consideration under the 5-minute rule beyond the 24th, would that not shut the Congress off entirely from voting on any of these recommendations? So we do have a constitutional right to consider these propositions without having them smothered in this way.

The Speaker Pro Tempore: The Chair will state that the House always has a constitutional right and power to refuse to go into the Committee of the Whole on any motion made by any Member, so that the House is capable of carrying out its will, whatever may be the will of the majority of the House.

Continuing, the Chair will state that in the opinion of the present occupant, in view of the unanimous-consent request made by the gentleman from Missouri and granted by the House, if any member of the Appropriations Committee moves that the House resolve itself into the Committee of the Whole on the State of the Union to consider the appropriation bill, that motion has preference over any other preferential motion. It is a matter that the House decides when the motion is made as to what it wants to do and it has an opportunity when that motion is made to carry out its will. . . .

Mr. [J. Percy] Priest [of Tennessee]: Mr. Speaker, a further parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Priest: My parliamentary inquiry simply is this, that notwithstanding the question of recognition under the unanimous-consent request ordered by the House at the request of the gentleman from Missouri, the matter of consideration still is in the House, is it not? If the House refuses to go into the Committee of the Whole it still is a question for the House to decide; is that not correct?

THE SPEAKER PRO TEMPORE: Exactly, and the gentleman from Michigan or anyone else making the motion could address the question to the Chair, which question the Chair would then have to pass upon.

Resolving to Consider Resolution of Disapproval

§ 4.5 A motion that the House resolve itself into a Committee of the Whole for the consideration of a resolution disapproving a reorganization plan is highly privileged and may be called up by any Member, and the Member is not required to qualify as being in favor of the resolution.

On June 8, 1961,(13) Speaker pro tempore Oren Harris, of Arkansas, indicated that a motion, made pursuant to the Reorganization Act of 1949 [5 USC § 912(a)], that the House resolve itself into the Committee of the Whole for consideration of a resolution (H. Res. 303) disapproving a reorganization plan was privileged.

MR. H. R. GROSS [of Iowa]: Mr. Speaker, is it in order and proper at this time to submit a highly privileged motion?

THE SPEAKER PRO TEMPORE: If the matter to which the gentleman refers is highly privileged, it would be in order.

MR. GROSS: Then, Mr. Speaker, under the provisions of section 205(a) Public Law 109, the Reorganization Act of 1949, I submit a motion. . . .

MR. [CLARENCE J.] BROWN [of Ohio]: As I understand the parliamentary situation the motion would be to take up the resolution of rejection; is that correct?

THE SPEAKER PRO TEMPORE: The Chair would like to state that the motion has not yet been reported; but the Chair understands that the motion is for the House to go into Committee of the Whole House for the consideration of it.

MR. BROWN: If that should be defeated, of course, we would not have the resolution of rejection before us.

THE SPEAKER PRO TEMPORE: The gentleman is correct. . . .

THE SPEAKER PRO TEMPORE: . . . The Clerk will report the motion offered by the gentleman from Iowa.

The Clerk read as follows:

> Mr. Gross moves that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of H. Res. 303 introduced by Mr. Monagan disapproving Reorganization Plan No. 2 transmitted to the Congress by the President on April 27, 1961.

---

13. 107 CONG. REC. 9775–77, 87th Cong. 1st Sess. See also 107 CONG. REC. 12905, 12906, 87th Cong. 1st Sess., July 19, 1961.

The Speaker Pro Tempore: . . . The question is on the motion offered by the gentleman from Iowa [Mr. Gross].

The motion was rejected.

§ 4.6 The rejection of a motion that the House resolve itself into the Committee of the Whole for the consideration of a disapproval resolution does not preclude a subsequent motion to the same effect.

On June 8, 1961,(14) Mr. H. R. Gross, of Iowa, submitted a motion that the House resolve into the Committee of the Whole to consider a resolution disapproving of a reorganization plan. Speaker pro tempore Oren Harris, of Arkansas, indicated that a subsequent motion that the House resolve itself into the Committee of the Whole for consideration of a resolution disapproving the same plan would not be precluded by the rejection of the pending motion.

Mr. [Charles A.] Halleck [of Indiana]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Halleck: As I understand, there is a motion pending to call up what is known as Reorganization Plan No. 2.

The Speaker Pro Tempore: The Chair would state that the gentleman from Iowa indicated he would submit such a motion, but it has not been reported.

Mr. Halleck: Mr. Speaker, a further parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it. . . .

Mr. Halleck: If the pending motion is voted down, would it still be in order at a subsequent date to call up a motion rejecting plan No. 2 for another vote? I ask that because I am opposed to plan No. 2. . . .

The Speaker Pro Tempore: The opinion of the Chair, under the Reorganization Act, it could be called up at a subsequent date.(15)

Mr. Halleck: In other words, the action that would be taken today would not be final?

The Speaker Pro Tempore: The gentleman is correct.

Mr. Halleck: In view of the fact that there was no notice to the membership of the House of Representatives on either side that this matter would come on for action today, if plan No. 2 is not voted on today it would subsequently be voted on?

The Speaker Pro Tempore: The gentleman is correct.

---

14. 107 Cong. Rec. 9775–77, 87th Cong. 1st Sess.

15. Under 5 USC § 912(a), it is provided: "When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. . . ."

After Motion to Discharge

§ 4.7 The House may resolve itself into the Committee of the Whole to consider a bill before the House as a result of a motion to discharge.

On Apr. 26, 1948,(16) after agreeing to discharge H.R. 2245, to repeal the tax on oleomargarine from the Committee on Agriculture, the House agreed to resolve itself into the Committee of the Whole for consideration of that bill.

> Mr. [L. Mendel] Rivers [of South Carolina]: Mr. Speaker, I call up the motion to discharge the Committee on Agriculture from the further consideration of the bill (H.R. 2245) to repeal the tax on oleomargarine.
>
> The Speaker:(17) Did the gentleman sign the petition?
>
> Mr. Rivers: I did, Mr. Speaker.
>
> The Speaker: The gentleman qualifies.
>
> The Clerk read the title of the bill.

After conclusion of the debate on the motion to discharge, the following proceedings occurred:

> The Speaker: All time has expired. The question is, Shall the Committee on Agriculture be discharged from further consideration of the bill H.R. 2245?
>
> Mr. [Clifford R.] Hope [of Kansas]: Mr. Speaker, on that I demand the yeas and nays.
>
> The yeas and nays were ordered.
>
> The question was taken; and there were—yeas 235, nays 121, answered "present" 2, not voting 72. . . .
>
> The Speaker: Without interfering with the rights of the gentleman from South Carolina to move to go into the Committee of the Whole,(18) the Chair will entertain consent requests for extensions of remarks only. . . .
>
> Mr. Rivers: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2245) to repeal the tax on oleomargarine; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 3 hours, the time to be equally divided and controlled by the gentleman from Kansas [Mr. Hope] and myself.
>
> The Speaker: Is there objection to the request of the gentleman from South Carolina?
>
> There was no objection.

---

16. 94 Cong. Rec. 4835, 4841, 4842, 80th Cong. 2d Sess.
17. Joseph W. Martin, Jr. (Mass.).
18. Rule XXVII clause 4, *House Rules and Manual* § 908 (1979) provides: "If the motion prevails to discharge one of the standing committees of the House from any public bill or resolution pending before the committee, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of such bill or resolution (such motion not being debatable), and such motion is hereby made of high privilege . . . ."

THE SPEAKER: The question is on the motion offered by the gentleman from South Carolina.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 2245, with Mr. Arends in the chair.

Resolving After Ruling on Words Taken Down

§ 4.8 After the Speaker has ruled on words taken down in Committee, the House automatically again resolves into the Committee of the Whole.

On Mar. 26, 1965,[19] during consideration of H.R. 2362, the elementary and secondary education bill of 1965, and after Speaker John W. McCormack, of Massachusetts, ruled on words taken down in the Committee of the Whole, Chairman Richard Bolling, of Missouri, indicated that a motion that the House resolve itself into the Committee was not necessary because that procedure is automatic.

The proceedings in the House were as follows:

THE SPEAKER: The Clerk will report the words objected to.

The Clerk read as follows:

> I might suggest further you can beat this dog all you want for political purposes; you can demagog however subtly and try to scare people off at the expense of the Nation's schoolchildren with your demagoguery[20]—

THE SPEAKER: The Chair feels that Members in debate have reasonable flexibility in expressing their thoughts.

The Chair sees nothing about the words that contravene the rules of the House. The point of order is not sustained.

The Committee will resume its sitting.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2362) with Mr. Bolling in the chair. . . .

THE CHAIRMAN: The gentleman from New Jersey [Mr. Thompson].

MR. [FRANK] THOMPSON [Jr.] of New Jersey: Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

MR. [ROBERT P.] GRIFFIN [of Michigan]: Mr. Chairman, I object.

---

[19] 111 CONG. REC. 6107, 89th Cong. 1st Sess. See also 111 CONG. REC. 18441, 89th Cong. 1st Sess., July 27, 1965, for another example of the automatic resolution into the Committee of the Whole following the Speaker's ruling on words taken down in the Committee. Generally, the procedure for taking down words in the Committee of the Whole is discussed at Ch. 29 §§ 48–52, infra.

[20] The weight of authority now supports the view that allegations of a Member's "demagoguery" do constitute disorderly language in debate. See Ch. 29, Consideration and Debate, § 60, infra.

There has been no motion to resolve the House into the Committee of the Whole House on the State of the Union. The gentleman is out of order at this point.

The Chairman: The House automatically goes back into the Committee of the Whole.

The Chair recognizes the gentleman from New York [Mr. Powell].

Automatic Call of House on Motion to Resolve

§ 4.9 An automatic roll call was had on a motion to go into the Committee of the Whole to consider an appropriation bill after an intervening motion to adjourn was decided in the negative by division vote.

On Feb. 14, 1946,(21) an automatic roll call was had on the motion to go into the Committee of the Whole to consider H.R. 5452, making appropriations for the Departments of the Treasury and the Post Office after rejection of a motion to adjourn.

Mr. [Louis] Ludlow [of Indiana]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5452) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1947, and for other purposes.

The Speaker Pro Tempore:(22) The question is on the motion offered by the gentleman from Indiana.

The question was taken; and on a division (demanded by Mr. Cochran) there were—ayes 103, no 1.

Mr. [John J.] Cochran [of Missouri]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker Pro Tempore: The Chair will count. [After counting.] One hundred and seventy-four Members present; not a quorum.

Mr. [Compton I.] White [of Idaho]: Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. White) there were—ayes 31, no 103.

So the motion was rejected.

The Speaker Pro Tempore: The question is on the motion offered by the gentleman from Indiana [Mr. Ludlow].

The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 243, nays 16, not voting 171, as follows: . . .

Motion to Resolve as Related to Question of Consideration

§ 4.10 The question of consideration may not be raised against a motion to resolve into the Com-

---

21. 92 Cong. Rec. 1324, 79th Cong. 2d Sess.

22. John J. Sparkman (Ala.).

mittee of the Whole for the consideration of a proposition.

On May 21, 1958,(23) Speaker Sam Rayburn, of Texas, ruled that the question of consideration could not be raised against the motion to resolve into the Committee of the Whole for the consideration of a bill, the motion to resolve being itself a test of the will of the House on consideration:

> MR. [HOWARD W.] SMITH of Virginia: May I submit a parliamentary inquiry, Mr. Speaker?
>
> THE SPEAKER: The gentleman may.
>
> MR. SMITH of Virginia: Under what circumstances can the question of consideration be raised?
>
> THE SPEAKER: The Chair tried to say a moment ago that it cannot be raised against the motion to go into the Committee of the Whole, because that is tantamount to consideration, and the House will have an opportunity to vote on that motion.
>
> MR. SMITH of Virginia: In other words, if we demand a vote on that question, then that will be tantamount to raising the question of consideration?
>
> THE SPEAKER: That is correct.

Withdrawing Motion to Resolve

§ 4.11 A Member may withdraw his motion that the House resolve itself into the Committee of the Whole at any time before the motion is acted upon, and unanimous consent is not required.

On Mar. 17, 1971,(24) Speaker Carl Albert, of Oklahoma, stated that a motion that the House resolve itself into the Committee of the Whole could be withdrawn without House permission at any time before the motion is acted upon.

> MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 223) proposing an amendment to the Constitution of the United States, extending the right to vote to citizens 18 years of age or older.
>
> THE SPEAKER: The question is on the motion offered by the gentleman from New York.
>
> For what purpose does the gentleman from Iowa rise?
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. GROSS: Is it proposed to take up this joint resolution at this hour?
>
> THE SPEAKER: For general debate only.
>
> MR. GROSS: Mr. Speaker, I intend to make a point of order that a quorum is not present.
>
> MR. CELLER: Mr. Speaker, I withdraw the motion.

---

(23) 104 CONG. REC. 9216, 85th Cong. 2d Sess.

(24) 117 CONG. REC. 6847, 6848, 92d Cong. 1st Sess.

Mr. Gross: Mr. Speaker, does that not require unanimous consent?

The Speaker: The gentleman has the authority of withdrawing his motion before it is acted upon by the House.

The gentleman has withdrawn his motion.

§ 4.12 The chairman of the committee, at the request of the Speaker, withdrew his motion to go into Committee of the Whole to consider a bill reported by his committee, in order that the House might consider emergency legislation reported by another committee.

On Dec. 9, 1970,(25) the Chairman of the Committee on Foreign Affairs, Thomas E. Morgan, of Pennsylvania, at the request of Speaker John W. McCormack, of Massachusetts, withdrew his motion that the House resolve itself into the Committee of the Whole. This motion was withdrawn to enable the House immediately to consider emergency railroad strike legislation reported by the Committee on Interstate and Foreign Commerce.

Mr. Morgan: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 19911) to amend the Foreign Assistance Act of 1961, and for other purposes. . . .

The Speaker: Will the gentleman from Pennsylvania (Mr. Morgan) withdraw his motion for the consideration of the bill H.R. 19911.

Mr. Morgan: Mr. Speaker, I withdraw the motion to go into Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 19911. . . .

Mr. [William M.] Colmer [of Mississippi], from the Committee on Rules, reported the following privileged resolution (H. Res. 1300, Rept. No. 91–1687), which was referred to the House Calendar and ordered to be printed:

H. Res. 1300

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1413) to provide for a temporary prohibition of strikes or lockouts with respect to the current railway labor-management dispute. . . .

Mr. Colmer: Mr. Speaker, I call up House Resolution 1300 and ask for its immediate consideration.

The Speaker: The Clerk will report the resolution.

Procedure of Motion to Resolve Over Motion to Discharge

§ 4.13 To a motion that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of a bill, a motion that the Committee of the Whole be discharged

---

(25) 116 Cong. Rec. 40688–91, 91st Cong. 2d Sess.

and that the bill be laid on the table is not preferential and not in order.

On Apr. 2, 1938,[26] during consideration of S. 3331, regarding government reorganization, Speaker William B. Bankhead, of Alabama, ruled that a motion that the Committee of the Whole be discharged and that the bill be laid on the table is not preferential to a motion that the House resolve itself into the Committee of the Whole for consideration of a bill:

Mr. [John J.] Cochran [of Missouri]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3331) to provide for reorganizing agencies of the Government, extending the classified civil service, establishing a General Auditing Office and a Department of Welfare, and for other purposes.

The Speaker: The gentleman from Missouri moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3331) to provide for reorganizing agencies of the Government, extending the classified civil service, establishing a General Auditing Office and a Department of Welfare, and for other purposes.

Mr. [John J.] O'Connor of New York: Mr. Speaker——

The Speaker: For what purpose does the gentleman from New York rise?

Mr. O'Connor of New York: To offer a preferential motion.

The Speaker: The Clerk will report the motion.

The Clerk read as follows:

> Mr. O'Connor of New York moves that the Committee of the Whole House on the state of the Union be discharged from further consideration of the bill S. 3331, and that said bill be laid on the table.

Mr. [Lindsay C.] Warren [of North Carolina]: A point of order, Mr. Speaker.

The Speaker: The gentleman will state it.

Mr. Warren: Mr. Speaker, it is obvious, of course, even to the gentleman from New York, great parliamentarian that he is, that this motion is merely dilatory. The motion pending before the House is that the House resolve itself into the Committee of the Whole House on the state of the Union. This is the only motion now pending. A motion to lay the bill on the table when it is not even up for consideration is entirely out of order.

Mr. O'Connor of New York: Mr. Speaker, under clause 4, rule XVI,(1) the motion I offer is a preferential motion. It must be made in the House, it cannot be made in the Committee of the Whole. A motion has been made to consider the bill. A motion to lay the bill on the table is preferential, I submit, according to the authorities I have examined and under the exact language of clause 4, rule XVI.

---

[26] 83 Cong. Rec. 4621, 75th Cong. 3d Sess.

(1) *House Rules and Manual* § 782 (1973).

The Speaker: The Chair is ready to rule.

The gentleman from New York [Mr. O'Connor] offers what he states is a preferential motion that the Committee of the Whole House on the state of the Union be discharged from consideration of the bill S. 3331, and said bill be laid on the table.

The Chair is of the opinion that under the rules of the House a motion of this sort is not a preferential motion, and therefore not in order. The matter now pending is a simple motion that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill, and under the precedents a motion to discharge the Committee of the Whole House on the state of the Union from the further consideration of a bill is not a privileged motion.

The Chair sustains the point of order.

Parliamentarian's Note: Even if the motion had been a straight motion to lay on the table, it would not have been in order since the bill was not "under debate" and therefore not subject to motions under clause 4, Rule XVI.

B. THE CHAIRMAN

§ 5. Speaker's Appointment of Chairman

When the early rules of the House were first drafted, the Chairman of the Committee of the Whole was elected by the House following the custom of the British Parliament. A 1794 modification altered the method of selection from election by the Members to appointment by the Speaker.[2] Rule XXIII clause 1 mandates the Speaker "in all cases" to leave the Chair after appointing a Chairman of the Committee of the Whole. This requirement is rooted in the history of the British House of Commons and the original purpose of the Committee of the Whole. The Speaker of the House of Commons during the reign of the Stuarts was a partisan of the King who reported proceedings to him. To preserve their confidences, Members of the House of Commons formed the Committee of the Whole and elected one of their colleagues to preside over debates on financial matters. The Speaker was not permitted in the Hall of the

---

[2] Rule XXIII clause 1, *House Rules and Manual* § 861 (1979); Jefferson's Manual, *House Rules and Manual* § 328 (1979); and 4 Hinds' Precedents § 4704.

House of Commons during these meetings.(3)

In General

§ 5.1 Parliamentarian's Note: The Chairman of the Committee of the Whole is appointed by the Speaker. The Chairman decides questions of order arising in the Committee independently of the Speaker. He recognizes for debate, but like the Speaker is forbidden to recognize for requests to suspend the rule of admission to the floor.

Rule XXIII clause 1 provides that "In all cases, in forming a Committee of the Whole House, the Speaker shall leave his chair after appointing a Chairman to preside, who shall, in case of disturbance or disorderly conduct in the galleries or lobby, have power to cause the same to be cleared."(4)

As to admission to the floor, Rule XXXII clause 1 provides: "The persons hereinafter named, and none other, shall be admitted to the Hall of the House or rooms leading thereto . . . and it shall not be in order for the Speaker to entertain a request for the suspension of this rule. . . ."(5) The rule also applies to the Chairman of the Committee of the Whole (see 5 Hinds' Precedents § 7285).

Chairman Pro Tempore

§ 5.2 Where the Member named by the Speaker to act as Chairman of the Committee of the Whole is not present at the time the House resolves into Committee, the Speaker may ask another Member to assume the chair as Chairman pro tempore pending the arrival of the Chairman.

On Oct. 18, 1967,(6) Speaker pro tempore Carl Albert, of Oklahoma, designated one Member, Charles A. Vanik, of Ohio, as Chairman of the Committee of the Whole and, because Mr. Vanik was not present when the House resolved into

---

3. See 99 Cong. Rec. 1897, 1898, 83d Cong. 1st Sess., Mar. 12, 1953, for a statement by Representative Clarence Cannon, and Reed, Thomas B., *Reed's Rules, A Manual of General Parliamentary Law,* Rand, McNally & Co., 1894, p. 67, for discussions of the origin of the Committee of the Whole.

4. *House Rules and Manual* § 861 (1979).

5. *House Rules and Manual* § 919 (1979).

6. 113 Cong. Rec. 29277, 90th Cong. 1st Sess.

Committee, appointed another, Member, Daniel D. Rostenkowski, of Illinois, to assume the Chair temporarily.

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 888), making continuing appropriations for the fiscal year 1968, and for other purposes.

The Speaker Pro Tempore: The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

The Speaker Pro Tempore: The Chair designates the gentleman from Ohio, [Mr. Vanik] as Chairman of the Committee of the Whole, and requests the gentleman from Illinois [Mr. Rostenkowski] to assume the chair temporarily.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 888), with Mr. Rostenkowski in the chair.

Use of Term "Madam Chairman"

§ 5.3 A female Member who is appointed Chairman of the Committee of the Whole should be addressed as "Madam Chairman."

On Sept. 20, 1973,(7) during consideration of H.R. 9281, relating to retirement benefits of law enforcement and fire-fighter personnel, Mrs. Martha W. Griffiths, of Michigan, stated the form of address of a female Chairman of the Committee of the Whole.

Mr. [H.R.] Gross [of Iowa]: Madam Chairperson, I yield myself such time as I may consume.

Madam Chairman, I was interested to hear the gentleman speak of the special benefits given to municipal employees of the city of New York. . . .

The Chairman: For the benefit of Members, the Chair would like to announce that the Chair is properly addressed as Madam Chairman. While she seems to be neutral, she is not neuter.

§ 6. Chairman's Role; Jurisdiction

Points of order relating to procedure arising in the Committee of the Whole are decided by the Chairman.(8) Rule XXIII clause

---

7. 119 Cong. Rec. 30589, 30592, 30594, 93d Cong. 1st Sess.

8. 5 Hinds' Precedents §§ 6927, 6928. But see 4 Hinds' Precedents § 4783, which states that in an exceptional case the Committee rose and reported a question of order for decision of the House when an appeal was taken from a ruling of the Chairman.

In rare cases where the Chairman has been defied or insulted, he has

1(9) empowers the Chairman to cause the galleries or lobbies to be cleared in case of disturbance or disorderly conduct. Nonetheless, in cases of extreme disorder the Speaker has taken the Chair and restored order without a formal rising of the Committee.(10) The Chairman is assisted by the Sergeant at Arms who attends sittings of the Committee to maintain order under direction of the Chair.(11)

In the Committee of the Whole only the Chairman may recognize Members for debate.(12) However, like the Speaker, he is forbidden from recognizing requests to suspend the rule of admission to the floor.(13) The Chairman has a duty to call to order any Member who violates the privileges of debate(14) even in the absence of any suggestion from the floor.(15)

Ruling on Points Not in Issue

§ 6.1 The Chair does not rule on issues not presented in a point of order.

On June 27, 1949,(16) during consideration of H.R. 4009, the Housing Act of 1949, and after overruling a point of order that certain provisions exceeded the jurisdiction of the Committee on Banking and Currency because they constituted appropriations, Chairman Hale Boggs, of Louisiana, declined to rule on an issue which had not been presented in the point of order.

> MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, the point of order I make is that subparagraphs (e)

---

directed the Committee to rise, left the Chair, and, following assumption of the Chair by the Speaker, reported the facts to the House. Note to Rule XXIII clause 1, *House Rules and Manual* § 862 (1973); 2 Hinds' Precedents §§ 1350, 1651, 1653.

9. *House Rules and Manual* § 861 (1979).

10. Note to Rule I clause 2, *House Rules and Manual* § 622 (1979); 2 Hinds' Precedents §§ 1348, 1648–1653, 1657.

11. Rule IV clause 1, *House Rules and Manual* § 648 (1979); Rule XXIII clause 1, *House Rules and Manual* § 862 (1979); and 1 Hinds' Precedents § 257.

12. 5 Hinds' Precedents § 5003. See § 15, infra, for a discussion of recognition for debate.

13. 5 Hinds' Precedents § 7285. See also Rule XXXII, *House Rules and Manual* §§ 919–921 (1979) relating to admission to the floor.

14. 8 Cannon's Precedents § 2515. See § 17, infra, for discussion of the procedure when words are taken down.

15. 8 Cannon's Precedents § 2520.

16. 95 Cong. Rec. 8480, 8536–38, 81st Cong. 1st Sess.

and (f) of section 102 in title I constitute the appropriation of funds from the Federal Treasury, and that the Committee on Banking and Currency is without jurisdiction to report a bill carrying appropriations under clause 4, rule 21, which says that no bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.

This is no casual point of order made as a tactical maneuver in consideration of the bill. I make this point of order because this proposes to expand and develop a device or mechanism for getting funds out of the Federal Treasury in an unprecedented degree.

The Constitution has said that no money shall be drawn from the Treasury but in consequence of appropriations made by law. It must follow that the mechanism which gets the money out of the Treasury is an appropriation. . . .

This proposal will give to the Committee on Banking and Currency, if it should be permitted, authority which the Committee on Appropriations does not have, for in the reporting of an appropriation bill for a fiscal year, any appropriation beyond the fiscal year would be held out of order. Here this committee is reporting a bill which proposes to make mandatory extractions from the Treasury during a period of 4 years. . . .

MR. [JOHN W.] MCCORMACK [of Massachusetts]: . . . The provision in paragraph (f) that my friend has raised a point of order against relates entirely to loans. As we read section 102 of title I it starts out with loans. Throughout the bill, a number of times, there is reference to loans. Paragraph (e) says:

> To obtain funds for loans under this title. . . .

I respectfully submit that it must call for an appropriation out of the general funds of the Treasury in order to violate the rules of the House. This permits the use of money raised by the sale of bonds under the Second Liberty Bond Act for loans to these public agencies, such loans to be repaid with interest.

I respectfully submit, complimenting my friend for having raised the point of order—and certainly, it is not a dilatory one, nor a casual one, one that demands respect—that the point of order does not lie against the language contained in the pending bill. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair agrees with the gentleman from South Dakota that the point which has been raised is not a casual point of order. As a matter of fact, as far as the Chair has been able to ascertain, this is the first time a point of order has been raised on this issue as violative of clause 4 of rule XXI.

As the Chair sees the point of order, the issue involved turns on the meaning of the word "appropriation." "Appropriation," in its usual and customary interpretation, means taking money out of the Treasury by appropriate legislative language for the support of the general functions of Government. The language before us does not do that. This language authorizes the Secretary of the Treasury to use proceeds of public-debt issues for the purpose of making loans. Under the language, the Treasury of the United States makes advances which will be repaid in full with interest over a period of years without cost to the taxpayers.

Therefore, the Chair rules that this language does not constitute an appropriation, and overrules the point of order.

Mr. Case of South Dakota: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Case of South Dakota: Would the Chair hold then that that language restricts the Secretary of the Treasury to using the proceeds of the securities issued under the second Liberty Bond Act and prevents him from using the proceeds from miscellaneous receipts or tax revenues?

The Chairman: The Chair does not have authority to draw that distinction. The Chair is passing on the particular point which has been raised.

Mr. Case of South Dakota: However, Mr. Chairman, it would seem implicit in the ruling of the Chair and I thought perhaps it could be decided as a part of the parliamentary history. It might help some courts later on.

The Chairman: The Chair can make a distinction between the general funds of the Treasury and money raised for a specific purpose by the issuance of securities. That is the point involved here.

Rulings to Follow Precedents

§ 6.2 The Chairman follows the precedents of the House in making decisions on points of order.

On July 28, 1959,(17) during consideration of a point of order that an amendment to H.R. 8385, making appropriations for the mutual security program, was legislative in intent, Chairman Wilbur D. Mills, of Arkansas, changed his opinion after being made aware of a precedent in which a point of order to a simliar amendment was overruled.

> Mr. [John V.] Dowdy [of Texas]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Dowdy: On page 5, after line 21, add a new section as follows: "No part of any appropriation contained in this Act shall be expended, in the event any such expenditure will increase, directly or indirectly, the public debt of the United States of America."
>
> Mr. [Otto E.] Passman [of Louisiana]: Mr. Chairman, I reserve a point of order.
>
> Mr. [John] Taber [of New York]: Mr. Chairman, I make a point of order against the amendment.
>
> The Chairman: The gentleman will state the point of order.
>
> Mr. Taber: Mr. Chairman, it creates additional duties and changes existing law.
>
> The Chairman: The Chair will hear the gentleman from Texas on the point of order.
>
> Mr. Dowdy: Mr. Chairman, the amendment I have offered puts a limita-

---

17. 105 Cong. Rec. 14521, 14522, 86th Cong. 1st Sess.

tion on an appropriation. I offered the same amendment in previous years and it has been held not to be legislation upon an appropriation bill. The fact of the matter is it follows in words section 102 of the present bill.

The Chairman: The gentleman from Texas offers an amendment to which the gentleman from New York makes a point of order on the ground that the amendment is legislation on an appropriation bill, therefore not germane to the bill before the Committee. Though the amendment appears to be in the form of a simple limitation on an appropriation bill, the Chair is of the opinion that the amendment itself will place additional duties and responsibilities and functions on someone perhaps in the executive department or in the Congress.

Mr. Dowdy: Mr. Chairman, in a previous year that very amendment has been ruled on to the contrary by the Chair.

The Chairman: If the gentleman would cite the decision, the Chair would be glad to have it.

Mr. Dowdy: I think it was 2 or 3 years ago on this bill. I do not have the decision.

The Chairman: The present occupant of the chair does not recall it. In view of the gentleman's statement, the Chair is constrained to withhold his final decision until he can look into the matter. . . .

The Chairman: The time of the gentleman from Texas has expired.

The Chair is now prepared to rule on the point of order.

The Chair appreciates the fact that the gentleman from Texas called the attention of the present occupant of the chair to the amendment offered in connection with the appropriation bill for mutual security in 1955. The gentleman from Texas at that time offered an amendment which is not identical with the amendment he offered today, although apparently the purpose of the amendment offered then and that of the amendment offered today are the same. The language varies slightly.

The Chairman of the Committee of the Whole, on that occasion, the gentleman from Pennsylvania [Mr. Walter], held that the amendment offered then in 1955 was merely a limitation. The present occupant of the chair feels constrained to follow the precedent pointed out by the gentleman from Texas and therefore overrules the point of order.

The question is on the amendment offered by the gentleman from Texas [Mr. Dowdy].

Clarification of Earlier Ruling

§ 6.3 After the Committee of the Whole had agreed that debate on an amendment be limited to five minutes and the Chair had misinterpreted the agreement as limiting debate on the amendment and all amendments thereto, the Chair later the same day apologized to the Committee and to a Member who had been denied the privilege of debate on his amendment to the amendment because of this misinterpretation.

On May 3, 1946,[18] during consideration of H.R. 6056, the 1947 appropriation bill for the Departments of State, Justice, Commerce, and the Judiciary, Chairman Wilbur D. Mills, of Arkansas, apologized for denying Mr. John M. Vorys, of Ohio, the privilege of debate on his amendment to an amendment. The apology was made because the Chairman misinterpreted a unanimous-consent request made by Mr. Louis C. Rabaut, of Michigan, that "all debate on the pending amendment," which had been offered by Mr. Vorys, "close in 5 minutes." Although the unanimous-consent agreement would have barred Mr. Vorys from debating his original amendment because the five minutes had expired at the time he rose to speak, it should not have been applied in this instance because Mr. Vorys rose to speak not on the "pending amendment" but rather on a new amendment which he sought to offer to the pending amendment.(19)

---

[18] 92 Cong. Rec. 4404–06, 4418, 79th Cong. 2d Sess.

Mr. Rabaut: Mr. Chairman, I ask unanimous consent that all debate on the pending amendment close in 5 minutes.

The Chairman: Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. Rabaut: Mr. Chairman, I ask unanimous consent that the amendment offered by the gentleman from Ohio [Mr. Vorys] be read again for the information of the Committee.

The Chairman: Is there objection to the request of the gentleman from Michigan?

Mr. [John] Taber [of New York]: Mr. Chairman, reserving the right to object, I think we ought to have a little more time.

The Chairman: Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk reread the pending Vorys amendment.

Mr. Rabaut: Mr. Chairman, the gentleman from Ohio has submitted a very complicated amendment. But the meaning of the amendment is very simple. . . .

The Chairman: The time of the gentleman from Michigan has expired. All time has expired. . . .

Mr. Rabaut: I ask for a vote on the amendment, Mr. Chairman.

The Chairman: The question recurs on the amendment.

Mr. Vorys of Ohio: Mr. Chairman, I have an amendment, which I send to the Clerk's desk.

The Chairman: Is it an amendment to the pending amendment?

Mr. Vorys of Ohio: Yes, Mr. Chairman.

The Chairman: The Clerk will report the amendment.

---

19. *Parliamentarian's Note:* If no objection is raised, a proponent of an amendment may amend his own amendment. 116 Cong. Rec. 19754, 91st Cong. 2d Sess., June 15, 1970. See Ch. 27, infra.

Mr. Rabaut: A parliamentary inquiry, Mr. Chairman.

The Chairman: The gentleman will state it.

Mr. Rabaut: On what ground is this amendment considered?

The Chairman: The gentleman from Ohio has offered an amendment to his amendment.

Mr. Rabaut: But debate has been closed and the gentleman cannot be recognized for debate.

The Chairman: The Chair does not recognize the gentleman for debate.

Mr. Vorys of Ohio: Mr. Chairman, no debate could possibly have been closed on this amendment which was not offered.

The Chairman: The gentleman from Michigan's unanimous-consent request was that all debate close within 5 minutes on the pending amendment and all amendments thereto.

Mr. Vorys of Ohio: No, Mr. Chairman.

The Chairman: The Clerk will report the amendment offered by the gentleman from Ohio to his amendment.

The Clerk read as follows:

> Amendment offered by Mr. Vorys of Ohio to the amendment offered by Mr. Vorys of Ohio: After the words "September 1, 1946," insert "not specifically authorized by act of Congress."

The Chairman: The question recurs on the amendment to the amendment.

Mr. Taber: Mr. Chairman, I offer a preferential motion.

The Chairman: The Clerk will report the preferential motion.

The Clerk read as follows:

> Amendment offered by Mr. Taber: Mr. Taber moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

After debate, the motion of Mr. Taber was rejected by voice vote. The amendment of Mr. Vorys to the amendment of Mr. Vorys was rejected on a teller vote of ayes 88, noes 106.

The Chairman: The Chair desires to make a statement.

Earlier today, immediately upon the House resolving itself into the Committee of the Whole House on the State of the Union for the consideration of the present bill, H.R. 6065, the chairman of the subcommittee handling the bill propounded a unanimous-consent request which the Chair endeavored to understand. The Chair, in attempting to understand the unanimous-consent request, failed, however, to understand that request as it was transcribed by the official reporter. The Chair has before him the transcript of the record as taken by the official reporter, of the request made by the gentleman from Michigan. The request of the gentleman from Michigan was that all debate on the pending amendment close in 5 minutes. The Chair misunderstood the gentleman so that when the gentleman from Ohio [Mr. Vorys] offered an amendment to his amendment, the gentleman from Ohio, instead of being recognized for the 5 minutes to which he was entitled, was barred by the Chair from speaking in support of his amendment to the amendment.

The Chair wishes to apologize to the Committee and to the gentleman from

Ohio [Mr. Vorys] for making a most unintentional misinterpretation of the request of the gentleman from Michigan. The Chair trusts the apology of the Chair may be accepted both by the gentleman from Ohio and the Committee.

Interruption of Debate by Chair

§ 6.4 The Chair may interrupt a Member of the House in debate when the Member proposes to read the opinions or statements of a Member of the Senate.

On May 25, 1937,(20) during consideration of House Joint Resolution 361, a relief appropriation, Chairman John J. O'Connor, of New York, interrupted a Member who sought to read a letter from a Member of the other body.

> MR. [ALFRED F.] BEITER [of New York]: . . . Mr. Chairman, I have letters here from Members of the Senate saying they are in sympathy with this movement. If you will permit me, I will read a letter from Senator Murray, in which he says——
>
> THE CHAIRMAN: The Chair, on its own responsibility, makes the point of order against the reading of a letter from a Member of another body.(21)

Expression of Appreciation to Chairman

§ 6.5 The House leaders expressed their appreciation for the dignity and fairness of the Chairman of the Committee of the Whole in presiding over debate on an appropriation bill.

On May 10, 1950,(22) House leaders from both parties expressed their appreciation for the manner in which the Chairman, Jere Cooper, of Tennessee, presided over Committee of the Whole in the consideration of H.R. 7786, the first general appropriation bill, 1951.

> MR. [J. PERCY] PRIEST [of Tennessee]: Mr. Chairman, I move to strike out the last word.
>
> Mr. Chairman, within a very few minutes the Committee of the Whole House on the State of the Union will rise and report this omnibus appropriation bill back to the House. The House of Representatives, Mr. Chairman, always appreciates a job well done, and

---

20. 81 CONG. REC. 5013, 75th Cong. 1st Sess.

21. *Parliamentarian's Note:* Jefferson's Manual provides: "It is a breach of order in debate to notice what has been said on the same subject in the other House. . . . Therefore it is the duty of the House, and more particularly the Speaker, to interfere immediately, and not to permit expressions to go unnoticed which may give a ground of complaint to the other House. . . ." *House Rules and Manual* §§ 371–374 (1979). See also Ch. 29, § 44, infra.

22. 96 CONG. REC. 6841, 6842, 81st Cong. 2d Sess. The proceedings described are illustrative of courtesies frequently expressed in the House of Representatives.

when that job happens to be a difficult and a tedious and a tiring job, the measure of appreciation is all the greater.

I take the floor at the close of this debate to express a very sincere appreciation for the magnificent job done by my distinguished colleague the gentleman from Tennessee [Mr. Cooper] in presiding over this bill in Committee.

I am sure that my sentiments in this respect are shared by every Member of this House on both sides of the aisle.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Chairman, will the gentleman yield?

MR. PRIEST: I yield to the gentleman from Massachusetts.

MR. MARTIN of Massachusetts: I want to join, in behalf of the Republican Members of this House, in this commendation of our very able Chairman who has conducted himself with great dignity and fairness. We, on this side, appreciate him as we always have.

MR. PRIEST: I thank the gentleman.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, will the gentleman yield?

MR. PRIEST: I yield to the gentleman from Massachusetts.

MR. MCCORMACK: We are all proud of Jere Cooper, not only as a Member of the House, but for the outstanding and the fine manner in which he always has presided over any bill that he has been designated as Chairman of the Committee of the Whole House. I have served with my friend for many years. The people of his district and of his State can well be proud of their Jere Cooper.

MR. PRIEST: I thank the majority leader.

Mr. Chairman, for more than a month this bill has been before the House. Day after day since about April 3 the distinguished gentleman from Tennessee has demonstrated every hour of every day those qualities of patience and fairness and justice that mark him as a great presiding officer.

In addition to his arduous duties of presiding during consideration of this bill, he has carried his part of the load during all of that time as the ranking majority member of the Committee on Ways and Means as it seeks to write a new tax bill.

THE CHAIRMAN: The Chair appreciates the very kind references.

MR. [CLARENCE] CANNON [of Missouri]: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

§ 7.—Limitations on the Chairman's Jurisdiction

The jurisdiction of the Chairman of the Committee of the Whole is not unlimited; certain determinations are reserved to the Speaker, the House, or the Committee itself. Thus, the Committee of the Whole, not the Chairman, determines whether language in a committee report is binding,(1) and the Speaker responds to inquiries regarding whether a time limitation may be rescinded(2) or whether a two-thirds vote is required in the House.(3) The House determines the constitutionality of proposed legislation,(4) the sufficiency or legal effect of committee reports,(5) and whether the Committee of the Whole may sit in executive session.(6)

Constitutional Questions

§ 7.1 The Chairman does not pass on questions of constitutionality.

On Mar. 11, 1958,(7) during consideration of S. 497, authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, Chairman Howard W. Smith, of Virginia, referred to the power of the Chair to rule on constitutional questions.(8)

MR. [DONALD E.] TEWES [of Wisconsin]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Tewes: On page 57, immediately after line 22, insert the following:
>
> "Sec. 211. For the purpose of disapproval by the President, each paragraph of each of the preceding sections, shall be considered a bill within the meaning of article I, section 7, of the Constitution of the United States, and each such paragraph which is disapproved shall not become law unless repassed in accordance with the provisions of section 7, article I, of the Constitution relating to the repassage of a bill disapproved by the President."
>
> And renumber the following section accordingly.

MR. [FRANK E.] SMITH of Mississippi: Mr. Chairman, I make a point of order against the amendment on the ground that such language is entirely out of order on any type of legislation. We do not have a provision in our Constitution for an item veto.

MR. TEWES: Mr. Chairman, I do not think that constitutional provisions are involved.

THE CHAIRMAN: The Chair is ready to rule. The Chair does not pass upon constitutional questions. The amendment seems to be pertinent to the bill and relates to the bill. Therefore, the Chair overrules the point of order.

---

1. § 7.16, infra.
2. § 7.12, infra.
3. § 7.13, infra.
4. § 7.2, infra.
5. § 7.17, infra.
6. § 7.18, infra.
7. 104 CONG. REC. 4020, 85th Cong. 2d Sess.
8. See also 112 CONG. REC. 25677, 89th Cong. 2d Sess., Oct. 7, 1966, in which Chairman Charles M. Price (Ill.), stated that the Chair does not pass on constitutional questions; and see 94 CONG. REC. 5817, 80th Cong. 2d Sess., May 13, 1948, for another illustration of this principle.

§ 7.2 The question of the constitutionality of proposed legislation is a matter for the House, and not the Chairman, to decide.

On May 10, 1973,[9] during consideration of an amendment to H.R. 7447, Chairman Jack B. Brooks, of Texas, ruled on the authority to decide constitutional questions.

Mr. [Sidney R.] Yates [of Illinois]: Mr. Chairman, I have a point of order against the language beginning at page 6, line 10 through line 12.

The Chairman: The gentleman will state his point of order.

Mr. Yates: Mr. Chairman. I make a point of order against the language set forth in lines 10, 11, and 12, on page 6.

Article I, section 8, of the Constitution of the United States says:

> The Congress shall have the power to declare war.

Congress has not declared war against Cambodia or Laos or against any other country in Southeast Asia for that matter. Congress has not given the President any authority to use the American Armed Forces in Cambodia and Laos. Nevertheless, on order of President Nixon, American military planes are bombing in both those countries. The appropriation contained in the transfer authority includes funds to continue the bombing of Cambodia and Laos. That appears in the report of the committee and in the testimony of the committee. This has been conceded by witnesses appearing before the committee, and Secretary of Defense Richardson again stated to the press yesterday that whether or not Congress approves the transfer authority, the bombing would continue. . . .

I am asking the Chair for its ruling on two points. One, I ask the Chair to rule with respect to military appropriations which provide funds for American Armed Forces to engage in war under rule XXI, section 2, of the Rules of Procedure of the House of Representatives, which states there must be, as well as any other legislation authorizing such action, compliance with article I, section 8, of the U.S. Constitution, which requires the approval of the Congress for American Armed Forces to engage in that war. . . .

The Chairman: Before the Chair will rule on this he will ask the Clerk to read the section on which the point of order was raised. The paragraph beginning on line 9.

The Clerk read as follows:

> Section 735 of the Department of Defense Appropriation Act, 1973, is amended by deleting "$750,000,000" and inserting "$1,180,000,000" in lieu thereof. . . .

The Chair is ready to rule.

The Chair has read the resolution, and the resolution adopted by the House under which this legislation is being considered says that—

> All points of order against said bill for failure to comply with the provisions of clause 2 and clause 5 of rule XXI are hereby waived.

---

[9] 119 Cong. Rec. 15290, 15291, 93d Cong. 1st Sess.

Under clause 2, which the Chair has read, the pending paragraph would be subject to a point of order, as legislation, were it not for this rule.

The Chair is not in a position, nor is it proper for the Chair to rule on the constitutionality of the language, or on the constitutionality or other effect of the action of the House in adopting the resolution of the Committee on Rules. In the head notes in the precedents of the House it very clearly states that it is not the duty of a chairman to construe the Constitution as it may affect proposed legislation, or to interpret the legality or effect of language; and the Chair therefore overrules the point of order raised by the gentleman from Illinois (Mr. Yates).

§ 7.3 It is the duty of the Chairman to determine whether the provisions in a pending bill conform to the rules of the House, but the Chair will not construe the constitutional validity of those provisions.

On May 10, 1973,(10) during consideration of an amendment to H.R. 7447, supplemental appropriations for fiscal year 1973, Chairman Jack B. Brooks, of Texas, determined that the amendment conformed to the House rules, but declined to construe the constitutional validity thereof.(11)

Merits of Proposed Legislation

§ 7.4 It is not the function of the Chair to pass upon the merits of a proposed amendment or bill.

On May 19, 1948,(12) during consideration of H.R. 5852, regarding control of subversive activities, Chairman James W. Wadsworth, Jr., of New York, stated that the Chairman in ruling on a point of order does not pass on the merits of proposed legislation.

MR. [SAM] HOBBS [of Alabama]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hobbs. . . .

"Sec. 20. (a) That the deportation of aliens provided for in this act and all other immigration laws of the United States shall be directed by the Attorney General, within his discretion and without priority of preference because of their order as herein set forth, either to the country from which such alien last entered the United States; or to the country in which is located the foreign port at which such alien embarked for the United States . . . ."

MR. [KARL [E.] [MUNDT] of South Dakota]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the pending bill, H.R. 5852. It seems to me the gentleman's amendment, which I believe is in actuality a bill which is before the House and before another committee, deals with the arrangements and techniques of deportation proceedings, which do not properly fall within the province of the House Committee on Un-American Activities, so in my opinion the amendment should not be attached with germaneness to legislation of this type. Regardless of the merits of Mr. Hobbs' proposal, I submit it should come before us as a separate measure and not be added as overburden to H.R. 5852.

---

(10) 119 CONG. REC. 15290, 15291, 93d Cong. 1st Sess.

(11) See § 7.2, supra, for the relevant debate on May 10.

(12) 94 CONG. REC. 6139, 6140, 80th Cong. 2d Sess.

The Chairman: Does the gentleman from Alabama care to be heard on the point of order?

Mr. Hobbs: I certainly do, Mr. Chairman.

The Chairman: The Chair will hear the gentleman.

Mr. Hobbs: Mr. Chairman, the amended title of this bill is "A bill to protect the United States against un-American and subversive activities." That is the declared purpose of the bill. In the subcommittee's report on the legislation we have been considering it is stated:

> The subcommittee recommends the immediate consideration by the Judiciary Committee of the House of proposals which would require all aliens to register annually with the Department of Justice, allow the Department of Justice to hold deportable aliens in custody until arrangements for their deportation can be concluded, and provide for strict reciprocity in the granting of visas and in the treatment of aliens from Communist-dominated countries.

I submit, Mr. Chairman, in all earnestness and candor, that when you are dealing with a problem that goes to un-American and subversive activities you cannot find any activity that is more important to prevent the poisoning of the body politic of this Nation than the one to which my amendment addresses itself. It has already been considered by the Judiciary Committee of the House, it has already been granted a rule by the Rules Committee, and it has already passed this House. In substance it is identical with H.R. 5643 of the Seventy-sixth Congress, that did pass this House. It is no fault of ours that it is not the law of the land today. . . .

The Chairman: The Chair is ready to rule.

The Chair would remind the gentleman from Alabama, of course, that his function is not to pass upon the merits of an amendment nor to pass upon the merits of the bill which the gentleman says has already passed the House. The Chair may personally find himself in complete agreement with the objective sought by the legislation which the gentleman from Alabama espouses, but the legislation to which he refers, as the Chair understands, has to do with the immigration and naturalization laws of the United States. This bill pending before the Committee of the Whole does not approach that subject. Its title is "Subversive Activities Control Bill, 1948." It comes from the Committee on Un-American Activities. That committee has no jurisdiction over legislation having to do with immigration and naturalization laws. Therefore, the Chair holds that the amendment is not germane.

Mr. Hobbs: Mr. Chairman, may I call the attention of the Chair to the fact that it deals with the question of the issuance of passports and prohibits such issuance.

THE CHAIRMAN: The proposal of the gentleman goes far beyond that. The point of order is sustained.

Consistency of Proposal With Existing Law

§ 7.5 It is not within the province of the Chairman to interpret the consistency of a provision in a legislative bill with the provisions of existing law.

On June 7, 1973,(13) during consideration of H.R. 7645, to authorize appropriations for the Department of State, Chairman Robert C. Eckhardt, of Texas, ruled on the scope of the Chair's authority to interpret a proposed bill.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. GROSS: Mr. Chairman, I make a point of order against the language to be found on page 2, paragraph 2, lines 16 and 17, as being in violation of the law and therefore not authorized.

Mr. Chairman, section 286(c), title 22, United States Code, which is derived from section 5 of the Bretton Woods Agreement Act, provides as follows:

> Unless Congress by law authorizes such action neither the President nor any person or agency shall on behalf of the United States propose or agree to any change in the par value of the United States dollar.

Mr. Chairman, I repeat "propose or agree to any change." Mr. Chairman, reading from the report accompanying this bill on page 6:

> Paragraph (2) authorizes an appropriation not to exceed $12,307,000 to offset increased costs abroad resulting from the dollar devaluation . . .

Mr. Chairman, I ask that my point of order be sustained on the ground that the purpose of this specific authorization is the result of a change in the par value of the dollar which has not been validated.

THE CHAIRMAN: Does the gentleman from Ohio wish to be heard on the point of order?

MR. [WAYNE L.] HAYS [of Ohio]: I do.

Mr. Chairman, I recall a previous ruling in which the Chair at one time ruled that the question of the constitutionality did not have any bearing on the point of order if the language were properly included in the bill and were not on an amendment subject to a point of order.

This is an amount of money put in at the request of the State Department. It has nothing to do with any possible action by the Banking and Currency Committee one way or the other.

Whether we like it or not, whether there has been any congressional action or not, in order to carry on the normal operations at the present time, it is going to require $12 million more to purchase the foreign currency necessary than it would have.

This is not a devaluation by an act of

---

13. 119 CONG. REC. 18502, 18503, 93d Cong. 1st Sess.

Congress. This is a pragmatic recognition of the loss of value of the dollar. And when the State Department buys foreign currency with which to pay its bills, it has to pay this much additional. By the time this becomes enacted into law, if the present policies continue, it may cost a great deal more than this.

So, it has nothing to do with any action of Congress or any law.

Mr. Gross: Mr. Chairman, may I be heard further, briefly.

I point out to the Chair that no legislation has been approved by Congress and signed by the President changing the par value of the dollar.

Mr. Hays: Mr. Chairman, may I be heard further?

The action of the Congress and the President has nothing to do with the purchase of foreign currency. When we go to buy it, we do not set the rate of exchange. The President of the United States and the Secretary of the Treasury have allowed the dollar to float, and it did not float; it sunk.

Therefore, this is a pragmatic situation. We have to pay what the market price is. Under a float, there is no fixed currency exchange rate. This has nothing to do in any way with any action of Congress.

The Chairman: The Chair is ready to rule.

The bill provides an authorization for an appropriation for expenses of the Department of State overseas. The expenditures are merely referred to as resulting from the devaluation of the dollar and do not bring about that devaluation. The language in the bill simply authorizes expenses of the Department of State, and is in order in a bill of this type.

All the Chair can do is interpret the rules of the House. There is no rule of the House called in controversy here.

The Chair overrules the point of order.

Hypothetical Questions

§ 7.6 The Chairman does not rule on hypothetical questions.

On Mar. 19, 1952,(14) after Chairman Wilbur D. Mills, of Arkansas, sustained a point of order raised by Mr. Clarence Cannon, of Missouri, to an amendment offered by Mr. Thomas A. Pickett, of Texas, Mr. John Phillips, of California, propounded a parliamentary inquiry as to whether the amendment would have been in order if the factual situation had been slightly different. The Chair refused to pass judgment on the hypothetical case. The proceedings were as follows:

> Mr. Pickett: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Pickett: On page 3, after line 14, insert a new heading and the following language:

---

14. 98 Cong. Rec. 2543, 82d Cong. 2d Sess. Under consideration was H.R. 7072, an independent executive offices appropriation bill for fiscal 1953.

"DISASTER RELIEF

"The unobligated balances at the end of June 30, 1952, of appropriations heretofore made for Disaster Relief under the act of September 30, 1950 (Public Law 875); the Independent Offices Appropriation Act of 1952; act of July 18, 1951 (Public Law 80); and the act of October 24, 1951 (Public Law 202), shall, to the extent that they exceed in the aggregate $5,000,000, not be available for obligation after June 30, 1952, and shall be recovered to the Treasury as miscellaneous receipts."

MR. CANNON: Mr. Chairman, I make the point of order, first, that the amendment is not germane to the bill. It has no relation to any item in the bill.

Second, it is legislation on an appropriation bill.

On both counts, or on either count, it is subject to a point of order.

THE CHAIRMAN: Does the gentleman from Texas [Mr. Pickett] desire to be heard on the point of order?

MR. PICKETT: Mr. Chairman, it occurs to me that this is a limitation of an appropriation. Its effect certainly is to recover into the Treasury moneys which are just floating around, and apparently serving no purpose at this time. It never occurred to me, of course notwithstanding whatever the rule might be, that we would avoid trying to save money here just by raising points of order. It seems to me that we might save a little money by even legislating some time. I hope the point of order will be overruled.

THE CHAIRMAN: The Chair is ready to rule. The gentleman from Texas [Mr. Pickett] has offered an amendment. The gentleman from Missouri [Mr. Cannon] makes a point of order against the amendment on the ground it is not germane to the bill before the Committee and that it is legislation on an appropriation bill. The Chair has had an opportunity to read the amendment proposed by the gentleman from Texas. The amendment does not, as the Chair understands, apply to funds contained in the pending bill H.R. 7072, but has reference to funds which have been made available by the Congress in other legislation. Therefore, the amendment is not germane and is clearly legislation on an appropriation bill. The Chair is constrained to sustain the point of order.

MR. PHILLIPS: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. PHILLIPS: Mr. Chairman, would it have been in order if the gentleman from Texas made it a transfer of the funds to the Housing and Finance Agency, which comes on about page 53, and which already has a fund for distress purposes, and merely transfer this money to that fund? It would, therefore, be a limitation upon it.

THE CHAIRMAN: I am sure the gentleman from California will agree with the Chair when the Chair calls the gentleman's attention to the fact that the present occupant of the Chair has enough trouble without having to pass judgment on a hypothetical case.

MR. PICKETT: Mr. Chairman, if I might be heard further, I might say that if there is any possibility that the amendment is germane, it will be offered at that point.

§ 7.7 The Chairman does not respond to hypothetical questions even though raised under the guise of a parliamentary inquiry.

On Mar. 26, 1965,(15) during consideration of H.R. 2362, the elementary and secondary education bill of 1965, Chairman Richard Bolling, of Missouri, declined to respond to a hypothetical question which had been raised as a parliamentary inquiry.

Mr. [Albert H.] Quie [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Quie: Mr. Chairman, if I had risen to move to strike out the last word, rather than offering an amendment which would be voted on, then would the extra 5 minutes have been divided equally?

The Chairman: The Chair is not in position to answer that kind of question.

Mr. Quie: It may happen in the future as we go along with the debate.

The Chairman: The Chair will meet the situation as it arises.

§ 7.8 The Chairman will not entertain as a parliamentary inquiry a hypothetical question regarding the effect which the defeat of a pending amendment would have on the propriety of another amendment which has not been offered.

On Nov. 30, 1971,(16) during consideration of H.R. 11060, the Federal Election Campaign Act of 1971, Chairman Richard Bolling, of Missouri, refused to give a specific answer to a question as to whether an amendment—not yet before the House—might be entertained after the defeat of the pending amendment.

Mr. [Frank E.] Evans of Colorado: Mr. Chairman, I have asked the gentleman from Illinois to yield to me for the purpose of posing a parliamentary inquiry.

The Chairman: The gentleman will state his parliamentary inquiry.

Mr. Evans of Colorado: In the event the amendment offered by the distinguished gentleman from Ohio (Mr. Hays) is defeated, will we then be in a position to entertain an amendment as described by the gentleman from Illinois (Mr. Anderson)?

The Chairman: The Chair will reply to the gentleman from Colorado that the Chair cannot anticipate events precisely. If the amendment offered by the gentleman from Ohio (Mr. Hays) to this particular section is voted down, then another germane amendment to the particular area could be offered.

---

15. 111 Cong. Rec. 6114, 89th Cong. 1st Sess.

16. 117 Cong. Rec. 43377, 92d Cong. 1st Sess.

Anticipating House Action

§ 7.9 The Chairman of the Committee of the Whole does not predict what action may take place in the House after the Committee rises.

On Mar. 24, 1949,(1) during consideration of H.R. 2681, to provide pensions for veterans of World World Wars I and II based on nonservice-connected disability and attained age, Chairman Albert A. Gore, of Tennessee, made reference to the power of the Chairman to anticipate House action following a rise of the Committee.

MR. [OLIN E.] TEAGUE [of Texas]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Teague moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

MR. TEAGUE: Mr. Chairman, the purpose of this motion is not to kill the bill. The purpose of this motion is to bring it back before the House, at which time I will make a motion to recommit it to the Committee on Veterans' Affairs for further study. I think it is obvious from what has happened in the last 2 days that the bill deserves further study. . . .

MR. [GEORGE A.] SMATHERS [of Florida]: Mr. Chairman, is this not the parliamentary situation that if the motion is agreed to on this teller vote, then the Committee rises and a motion will be offered in the House to recommit the bill at which time there will be a yea-and-nay vote, the first recorded vote?

THE CHAIRMAN: As Chairman of the Committee of the Whole, the Chairman cannot construe what action may take place in the House. The Chairman can only report the action of the Committee of the Whole to the House when and if the Committee should rise.

§ 7.10 The Chairman of the Committee of the Whole does not rule on procedural questions that may be directed to the Speaker when a bill is reported back to the House.

On Oct. 8, 1969,(2) during consideration of amendments to H.R. 14159, the public works appropriation measure for fiscal year 1970, Chairman Wayne N. Aspinall, of Colorado, declined to rule on whether an amendment to the bill would be permissible in the House.

THE CHAIRMAN: . . . For what purpose does the gentleman from Michigan (Mr. O'Hara) rise?

MR. [JAMES G.] O'HARA: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. O'HARA: Would it be possible to offer an amendment to the language

---

1. 95 CONG. REC. 3110–15, 81st Cong. 1st Sess.

2. 115 CONG. REC. 29219, 29220, 91st Cong. 1st Sess.

on page 14, lines 15 through 17, in the House after the Committee rises?

THE CHAIRMAN: That request would have to be taken care of at the time a motion ordering the previous question is made.

MR. O'HARA: But if the previous question were not ordered, the amendment would then be in order?

THE CHAIRMAN: That question would be determined by the Speaker of the House.

§ 7.11 The Chairman of the Committee of the Whole does not anticipate or suggest what parliamentary decisions may be rendered in the House by the Speaker.

On May 18, 1966,(3) during consideration of H.R. 14544, the Participation Sales Act of 1966, Chairman Eugene J. Keogh, of New York, refused to anticipate decisions that the Speaker might render.

MR. [CHARLES R.] JONAS [of North Carolina]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. JONAS: In case the bill agreed on in the conference should delete this amending language, and the bill which came back to the House contained the objectionable language, against which the point of order was lodged, could a point of order be made against the conference report to strike that language?

THE CHAIRMAN: The present occupant of the chair would not assume to undertake to suggest what would be done by the Speaker in that event.

MR. JONAS: That would be a matter for the Speaker to decide.

THE CHAIRMAN: The gentleman is correct.

Rescinding Time Limitation

§ 7.12 Whether the House can rescind a time limitation imposed by the Committee of the Whole is a matter for the Speaker, and not the Chairman, to determine.

On Dec. 14, 1973,(4) during consideration of H.R. 11450, the Emergency Energy Act, Chairman Richard Bolling, of Missouri, declined to answer an inquiry regarding an extension of time for consideration of the bill on the ground that such an inquiry should be addressed to the Speaker.

MR. [JOHN H.] BUCHANAN [Jr., of Alabama]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. BUCHANAN: Mr. Chairman, should a motion be offered that the Committee do now rise, and that motion would be accepted by the Committee, would it be possible then in the

---

3. 112 CONG. REC. 10895, 89th Cong. 2d Sess.

4. 119 CONG. REC. 41731, 93d Cong. 1st Sess.

House for time to be extended or for the earlier motion limiting time to be rescinded?

The Chairman: The Chair will state to the gentleman from Alabama that the gentleman is asking the Chairman of the Committee of the Whole to rule on a matter that would come before the Speaker of the House of Representatives.

Mr. Buchanan: The Chairman cannot answer that according to the rules of the House?

The Chairman: The Chair will state that the Chair is not in a position to answer for the Speaker.

Vote Required in House

§ 7.13 The question of the vote required to adopt a resolution in the House is not properly addressed to the Chairman of the Committee of the Whole as a parliamentary inquiry but should be addressed to the Speaker in the House.

On June 13, 1946,(5) during consideration of H.R. 6777, the government corporations appropriation bill, 1947, Chairman William M. Whittington, of Mississippi, declined to rule whether a two-thirds vote would be required in the House to adopt a special rule.

Mr. [Francis H.] Case of South Dakota: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Case of South Dakota: Would it be possible to get a rule making in order a paragraph which had previously been stricken from the bill on a point of order, unless that rule was adopted by a two-thirds vote?

The Chairman: The Chair may say to the gentleman that that inquiry is not one that can be answered in the Committee of the Whole. It is a matter that would have to be determined by the Speaker of the House.

Time To Resume Unfinished Business

§ 7.14 The question as to when the Committee of the Whole will continue the consideration of a pending bill after rising for the day is for the Speaker and the House to decide and not the Chairman of the Committee of the Whole.

On Apr. 26, 1948,(6) during consideration of H.R. 2245, to repeal the tax on oleomargarine, Chairman Leslie C. Arends, of Illinois, declined to rule on when the Committee would continue consideration of the bill after rising for the day.

Mr. August H. Andresen [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

---

5. 92 Cong. Rec. 6877, 6878, 79th Cong. 2d Sess.

6. 94 Cong. Rec. 4873, 80th Cong. 2d Sess.

BEST AVAILABLE COPY

THE CHAIRMAN: The gentleman will state it.

MR. AUGUST H. ANDRESEN: Mr. Chairman, I understand that the Committee will rise at 4 o'clock. It is also my understanding of the rules that this Committee should meet tomorrow in order to have continuous consideration of the pending legislation.

I would like to have a ruling of the Chair as to whether or not the rules provide that a day may intervene so that this legislation may be taken up on Wednesday.

THE CHAIRMAN: The Chair may say that is a matter for the Speaker of the House and the House itself to determine. It is not something within the jurisdiction of the Chair to decide.

§ 7.15 A parliamentary inquiry as to whether a bill under consideration on Calendar Wednesday would be the unfinished business of the Committee of the Whole on the next day if the House adjourns is not a question for the Chairman to decide.

On Feb. 22, 1950, Calendar Wednesday,(7) during consideration of H.R. 4453, the Federal Fair Employment Practice Act, Chairman Francis E. Walter, of Pennsylvania, declined to answer a parliamentary inquiry as to whether the bill would be the unfinished business of the Committee of the Whole on the next day if the House adjourned.

THE SPEAKER:(8) The House automatically resolves itself into the Committee of the Whole House on the State of the Union. The gentleman from Pennsylvania [Mr. Walter] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4453) to prohibit discrimination in employment because of race, color, religion, or national origin, with Mr. Walter in the chair.

The Clerk read the title of the bill.

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. FULTON: If the House were now to adjourn would the first order of business tomorrow be the consideration of this bill by the Committee of the Whole?

THE CHAIRMAN: The parliamentary inquiry is directed to a state of facts that does not exist. The House has resolved itself into the Committee of the Whole, and the Committee of the Whole cannot adjourn.

The Clerk will read the bill.

Sufficiency or Legal Effect of Committee Report

§ 7.16 The Chair does not pass on the legal effect of funding limitations included in a committee

---

7. 96 CONG. REC. 2161, 2162, 81st Cong. 2d Sess.

8. Sam Rayburn (Tex.).

report on an appropriation bill but not written into the wording of the bill; that matter is decided by the Committee of the Whole in considering the bill for amendment.

On Apr. 14, 1955,[9] during consideration of H.R. 5502, the Departments of State, Justice, Judiciary, and related agencies appropriations bill of 1956, Chairman Jere Cooper, of Tennessee, declined to respond to a parliamentary inquiry as to whether limitations appearing in a committee report but not in the bill are binding.

Mr. [Robert C.] Wilson of California: I have a question relative to the United States Information Agency as it affects the report of the committee. As printed I notice there are several limitations written into the report. For instance, not to exceed $300,000 is provided for the "presentation" program; not to exceed $200,000 is provided for exhibits for which $334,000 was requested, and other limitations of that type.

I am wondering if the fact that these limitations appear in the report make them actual limitations in law. I notice they are not mentioned in the bill itself, and I wonder if the committee regards them as binding on the agency, because there are many serious limitations, particularly in regard to exhibits, for example. I would just like to hear the opinion of the chairman.

Mr. [John J.] Rooney [of New York]: I may say to the gentleman from California that it is expected that they will be the law; and that they are binding. The fact that they have not been inserted in the bill is not important. They represent the considered judgment of the committee and we expect the language of the report to be followed.

Mr. Wilson of California: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Wilson of California: Are limitations written in a committee report such as this, but not written into the wording of the legislation, binding?

The Chairman: That is not a parliamentary inquiry. That is a matter to be settled by the members of the Committee of the Whole.

§ 7.17 The Chair does not rule on the sufficiency or legal effect of committee reports.

On Apr. 14, 1955,[10] during consideration of H.R. 5502, the Departments of State, Justice, Judiciary, and related agencies appropriations bill of 1956, Chairman Jere Cooper, of Tennessee, stated that the Chair would not pass on the sufficiency of the committee report on the bill.

Mr. [Robert C.] Wilson of California: I have a question relative to the

---

[9] 101 Cong. Rec. 4463, 4464, 84th Cong. 1st Sess.

[10] 101 Cong. Rec. 4463, 4464, 84th Cong. 1st Sess.

United States Information Agency as it affects the report of the committee. As printed I notice there are several limitations written into the report. For instance, not to exceed $300,000 is provided for the "presentation" program; not to exceed $200,000 is provided for exhibits for which $334,000 was requested, and other limitations of that type.

I am wondering if the fact that these limitations appear in the report make them actual limitations in law. I notice they are not mentioned in the bill itself, and I wonder if the committee regards them as binding on the agency, because there are many serious limitations, particularly in regard to exhibits, for example. I would just like to hear the opinion of the Chairman. . . .

MR. WILSON of California: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it. . . .

MR. WILSON of California: I merely wanted [to ask about a report] for my own understanding and information, for I am fairly new here. It seems to me rather unusual to consider matter written into a report of the same binding effect on an administrator as though written into the law itself.

THE CHAIRMAN: It is not the prerogative of the Chair to pass upon the sufficiency or insufficiency of a committee report.

MR. WILSON of California: I am not really asking whether the report itself is sufficient or insufficient; I am asking whether the legislation we are voting on here is sufficient or insufficient.

The committee report on the appropriation bill now before the House includes recommendations on maximum amounts to be available to the USIA for certain specified functions. The recommendations appear to be intended as limitations. No comparable limitations are contained in the bill appropriating funds to USIA. . . .

Legislation can be enacted only by the joint action of the House and Senate and the President. Legislation cannot be unilaterally enacted by a committee of the Congress. Naturally the committee recommendations are to be given due weight by the executive agencies in the administration of the programs concerned. These recommendations are the result of the arduous labors of conscientious legislators. They are not to be lightly ignored or disregarded by the executive arm of the Government. They are not, however, legislative mandates having the force of law.

I am firmly of the above view and understand that my view is shared by the General Counsel of the General Accounting Office.

THE CHAIRMAN: The gentleman might address that inquiry to the chairman of the subcommittee.

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, will the gentleman yield?

MR. [FREDERIC R.] COUDERT [Jr., of New York]: I yield.

MR. ROONEY: Let me say once again that the language in the report with regard to these limitations is a matter of custom which has been followed over many years, and it is expected that the USIA and the departments involved in this bill will strictly follow the language of the report unless the will of the House demonstrates otherwise by adopting amendments to the bill.

Sitting in Executive Session

§ 7.18 The House and not the Committee of the Whole decides whether the Committee may sit in executive session; a parliamentary inquiry of this sort should be addressed to the Speaker and not the Chairman of the Committee of the Whole.

On May 9, 1950,(11) during consideration of H.R. 7786, the general appropriations bill of 1951, Chairman Mike Mansfield, of Montana, stated that the House, not the Committee of the Whole, determines whether the Committee may sit in executive session, and he declined to respond to a parliamentary inquiry regarding that matter on the ground that such an inquiry should be addressed to the Speaker.

MR. [ERRETT P.] SCRIVNER [of Kansas]: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would submit a parliamentary inqury as to whether or not an executive session could be held and, if so, what procedure would be necessary to bring that to pass before we are asked to vote upon the $350,000,000 additional.

THE CHAIRMAN: The Chair will state to the gentleman from Kansas that the Committee of the Whole would have no control over that. That would be a matter for the House itself to decide.

MR. SCRIVNER: I understand that, of course, and raised the question for information of the Members. Since it is a matter for the House to determine, as a further parliamentary inquiry, what would be the method followed to take that action?

THE CHAIRMAN: The Chair will say to the gentleman from Kansas that a parliamentary inquiry of that sort should be addressed to the Speaker rather than the Chairman.

Interpretation of Senate Procedure

§ 7.19 The Chair does not interpret the rules or procedures of the Senate.

On June 6, 1961,(12) during consideration of H.R. 7444, making appropriations for the Department of Agriculture for fiscal year 1962, the Chairman declined to interpret Senate rules or procedure.

MR. [WILLIAM H.] AVERY [of Kansas]: Mr. Chairman, may I submit another parliamentary inquiry?

THE CHAIRMAN:(13) The gentleman will state it.

MR. AVERY: Mr. Chairman, the language of the amendment now pend-

---

11. 96 CONG. REC. 6746, 81st Cong. 2d Sess.

12. 107 CONG. REC. 9626, 87th Cong. 1st Sess.

13. Paul J. Kilday (Tex.).

ing at the desk is the identical language that came into conference from the other body following action of the House, and my amendment in 1959 became incorporated, I believe, in the conference report. Does that in any way change the legislative history of the amendment?

THE CHAIRMAN: The Chair may advise the gentleman that nothing is pending before the Chair, but by way of observation, the language the gentleman speaks of was apparently added by the other body. The present occupant of the Chair would not attempt to state or to interpret the rules or procedure of the other body.

MR. AVERY: I thank the Chairman.

§ 8. —Rulings Relating to Amendments

The Chairman of the Committee of the Whole is guided by the precedents in determining whether a bill being considered in the Committee shall be read for amendment by sections or paragraphs. Generally, appropriation bills are read for amendment by paragraph and other bills are read for amendment by section, in the absence of a special rule providing otherwise.(14) Nonetheless, the Chairman's decision on this matter has been overruled on occasion.(15) Although it is ordinarily not in order to return to a section or paragraph that has been passed,(16) the Chairman may direct a return to a section when, by error, no action had been taken on a pending amendment.(17)

Application or Effect of Proposed Amendment

§ 8.1 The Chairman does ordinarily not construe the effect of an amendment.

On Apr. 26, 1966,(18) during consideration of an amendment to H.R. 14596, making appropriations for the Department of Agriculture for fiscal year 1967, Chairman Eugene J. Keogh, of New York, declined to construe the effect of an amendment except to respond to a point of order alleging that it was legislation on an appropriation bill.

---

(14) Note to Rule XXIII clause 5, *House Rules and Manual* § 872 (1979); 8 Cannon's Precedents §§ 2341–2346.
See Ch. 27, infra, for other precedents relating to amendments.

(15) Note to Rule XXIII clause 5, *House Rules and Manual* § 872 (1979); 8 Cannon's Precedents § 2347.

(16) Rule XXIII clause 5, *House Rules and Manual* § 872 (1979); 4 Hinds' Precedents §§ 4742, 4743.

(17) Rule XXIII clause 5, *House Rules and Manual* § 872 (1979); 4 Hinds' Precedents § 4750.

(18) 112 CONG. REC. 8968, 8969, 89th Cong. 2d Sess.

Mr. [Paul] Findley [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Findley: On page 35, strike all language on lines 11 and 12, and insert the following:
>
> "No funds appropriated by the Act shall be used to formulate or administer a Federal crop insurance program for the current fiscal year that does not meet its administrative and operating expenses from premium income: *Provided*,". . . .

Mr. [Jamie L.] Whitten [of Mississippi]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Illinois on the ground that it is legislation on an appropriation bill.

May I say that the gentleman from Illinois gave the matter away, in my opinion, when he said that the purpose of his amendment was to set premium rates that the Government would charge. I think that shows clearly what is involved. This amendment provides that no funds shall be used to administer this program under certain conditions. The program now in existence is based on contracts to which the Government is a party. For us in this bill to try to prohibit the handling of existing contracts on the part of the Government would clearly be legislation. It not only would be legislation but it would interfere with meeting obligations under existing contracts and commitments on the part of the Government.

For that reason, Mr. Chairman, I submit that the point of order should be sustained.

The Chairman: Does the gentleman from Illinois desire to be heard on the point of order?

Mr. Findley: Yes, Mr. Chairman.

Mr. Chairman, the amendment I have offered is clearly a limitation of funds, requiring that no funds be appropriated for the administration or formulation of programs. Therefore, on the basis of that it seems to me that the amendment is in order.

Mr. Whitten: Mr. Chairman, if I may make one observation, the amendment has to do with setting premiums and is quite clearly an affirmative action.

The Chairman: The Chair is prepared to rule.

The gentleman from Illinois [Mr. Findley] has offered an amendment at page 35, striking out all language on lines 11 and 12, and the amendment would add a new paragraph; to which amendment the gentleman from Mississippi has made a point of order on the ground that it is legislation on an appropriation act. . . .

It might be said that the effect of any proposed amendment is truly not within the competence of the Chair. But a reading of this language indicates to this occupant of the chair that there is here sought an express limitation on the funds appropriated by the pending bill and the Chair, therefore, overrules the point of order.

§ 8.2 The Chair may construe the purpose of an amendment to determine whether it is a limitation on an appropriation and therefore

in order, but may refuse to rule on its application or construction with respect to a provision in the bill.

On May 15, 1957,[19] during consideration of H.R. 7441, making appropriations for the Department of Agriculture, Chairman Paul J. Kilday, of Texas, declined to pass on the construction of a proposed amendment after a point of order was made alleging that it was surplusage and ineffective because of a previously adopted amendment.

The Clerk read as follows:

ACREAGE RESERVE, SOIL BANK

For necessary expenses to carry out an acreage reserve program in accordance with the provisions of subtitles A and C of the Soil Bank Act (7 U.S.C. 1821–1824 and 1802–1814), $600,000,000: *Provided*, That no part of this appropriation shall be used to formulate and administer an acreage reserve program which would result in total compensation being paid to producers in excess of $500,000,000 with respect to the 1958 crops.

MR. [BURR P.] HARRISON of Virginia: I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Harrison of Virginia: On page 21, strike out all following the word "program" in line 2 and strike out all of line 3. . . .

So the amendment was agreed to.

MR. [HENRY S.] REUSS [of Wisconsin]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Reuss: On page 21, line 4, change the period to a comma and add the following: "or in total compensation being paid to any one producer in excess of $5,000 with respect to the 1958 crops."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, the committee having stricken out or prohibited the use of any money for any 1958 program, now to provide that money shall be limited to $5,000 per participant where no money can be used for the 1958 program is the question. If it is in order, Mr. Chairman, I should like to renew my point of order that to put a limitation on the amount to be given to a participant, when the committee has just adopted an amendment prohibiting the use of any money, strikes me as being surplusage and subject to a point of order. . . .

THE CHAIRMAN: The Chair is ready to rule on the point of order.

First, the Chair wants to call attention to the fact that the amendment offered by the gentleman from Virginia [Mr. Harrison] did not strike out all of the proviso. It struck out only that portion of the proviso on page 21, line 2, beginning after the word "program" to and including "$500,000,000" in line 3. So that the proviso now reads:

Provided, That no part of this appropriation shall be used to formulate and administer an acreage-reserve program with respect to the 1958 crops.

---

[19] 103 CONG. REC. 7023, 7033, 7034, 85th Cong. 1st Sess.

The amendment offered by the gentleman from Wisconsin [Mr. Reuss] strikes out the period, inserts a comma, and adds the language "or in total compensation being paid to any one producer in excess of $5,000 with respect to the 1958 crops."

While it may be because of the amendment offered by the gentleman from Virginia having been adopted that the amendment offered by the gentleman from Wisconsin would be ineffective, still the Chair believes, it being a limitation upon the purpose for which the funds are appropriated, that it is in order and that the point of order should be overruled.

Mr. Whitten: Mr. Chairman, do I understand then that it is the judgment of the Chair that it would not apply back to the $600 million?

The Chairman: The Chair is not going to pass on the construction of the language whether this amendment is adopted or not.

The point of order is overruled.

§ 8.3 The Chairman does not rule on the effect of amendments on other provisions in a bill, or their consistency with provisions of the bill already passed in the reading for amendment.

On June 28, 1967,[1] during consideration of amendments to H.R. 10340, authorizing appropriations for the National Aeronautics and Space Administration, Chairman John J. Flynt, Jr., of Georgia, on two occasions overruled points of order on the ground that the Chairman does not rule on the consistency of amendments or their effect on other provisions of a bill.

The bill contained an overall appropriation (on page 1, line 5, as mentioned below) which was to be divided among various specified projects, including an amount for sustaining university programs (on page 2, line 22, as mentioned below). The "consistency problem", as raised by Mr. Joseph E. Karth, of Minnesota, was that the total figure for the overall appropriation would not equal the sum of all the appropriations for the various specified projects if an amendment changed only the figure for one of the specified programs. The proceedings were as follows:

> Mr. [Richard L.] Roudebush [of Indiana]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Roudebush: On page 2, line 22, strike the amount "$30 million" and insert in lieu thereof the amount "$20 million".
>
> The Chairman: The gentleman from Indiana [Mr. Roudebush] is recognized for 5 minutes in support of his amendment.

---

[1] 113 Cong. Rec. 17755, 90th Cong. 1st Sess.

Mr. Karth: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Karth: Mr. Chairman, now that the amendment is here, I again renew my request for a ruling as to whether or not the amendment that the gentleman proposes to make on page 2 can be legitimately made without changing his figure on page 1. I raise that point of order, Mr. Chairman.

Mr. Chairman, I make the point of order.

The Chairman: Does the gentleman make a point of order to the amendment offered by the gentleman from Indiana?

Mr. Karth: I do, Mr. Chairman.

The Chairman: The gentleman will state this point of order.

Mr. Karth: My point of order is, If the gentleman proceeds with his amendment as it has been read by the Clerk, reducing the amount on line 22 by $10 million and he does not change the total on line 5 of page 1, it seems to me that the amendment is not in proper order.

The Chairman: Will the gentleman state his point of order in a form on which the Chair can rule?

Mr. Karth: The point of order I raise, Mr. Chairman, is against the amendment.

The Chairman: On what basis?

Mr. Karth: On the basis that it is not a properly drawn amendment, that it does not affect the bill as it otherwise would if it were proper.

The Chairman: The Chair overrules the point of order. The Chair does not make rulings on the consistency of language in amendments offered to the bill.

The gentleman from Indiana [Mr. Roudebush] is recognized for 5 minutes.

Mr. [Robert C.] Eckhardt [of Texas]: Mr. Chairman——

The Chairman: Does the gentleman from Indiana yield to the gentleman from Texas?

Mr. Roudebush: No, Mr. Chairman. I should like to make my remarks.

Mr. Eckhardt: A point of order, Mr. Chairman.

The Chairman: The gentleman will state his point of order.

Mr. Eckhardt: Mr. Chairman, I make the point of order that the amendment offered has the effect of changing the figure on page 1, line 5, by reducing it $10 million, and, therefore, affects line 5, which has already been amended at a previous time.

The Chairman: The Chair is ready to rule on the point of order.

The Chair will state, that the point of order made by the gentleman from Texas is substantially the same point of order made by the gentleman from Minnesota. The Chair does not rule on the question of whether an amendment to one point would amend another point in the bill.

The present amendment offered by the gentleman from Indiana relates to line 22 on page 2 and has no effect at this time on line 5, page 1.

The Chair, therefore, overrules the point of order of the gentleman from Texas.

The Chair recognizes the gentleman from Indiana [Mr. Roudebush] in support of his amendment.

Interpretation of Amendment

§ 8.4 The meaning of an amendment that is technically in order is not a matter to be passed on by the Chairman.

On Oct. 12, 1966,[2] during consideration of H.R. 51, the Indiana Dunes Lakeshore bill, Chairman John J. McFall, of California, declined to interpret an amendment.

MR. [J. EDWARD] ROUSH [of Indiana]: Mr. Chairman, I offer an amendment to the substitute amendment offered by the gentleman from Arizona [Mr. Udall].

The Clerk read as follows:

> Amendment to the substitute amendment offered by Mr. Roush: Page 2, line 6, strike out the period at the end of Mr. Udall's amendment and add the following: "excluding therefrom the one mile of lakefront known as Ogden Dunes Beach and adding thereto the area known as the Burns Bog Unit as shown on a map with the same title, dated January 1965 and bearing the number 'NL-ID-7001A' which map is also on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior."

THE CHAIRMAN: The Chair recognizes the gentleman from Indiana [Mr. Roush].

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Chairman, will the gentleman yield for the purpose of propounding a parliamentary inquiry?

MR. ROUSH: I yield to the gentleman from Indiana.

THE CHAIRMAN: The gentleman from Indiana will state the parliamentary inquiry.

MR. HALLECK: Mr. Chairman, in view of the fact that all of the units of this proposed national park are fixed by reference to a map, is it in order to offer language in indefinite terms that would undertake to alter that?

The gentleman from Arizona offered an amendment which referred to another map, which is a matter of record.

I do not know and I do not know whether anybody else knows just what is meant when reference is made to Ogden Dunes or Burns Bog units.

THE CHAIRMAN: The Chair would reply that the Chair is not in a position to construe the amendment. The amendment technically is in order and it is up to the Member offering an amendment to construe the amendment for the benefit of the Members.

Ambiguity of Amendment

§ 8.5 The Chair does not rule on whether an amendment is ambiguous.

On July 5, 1956,[3] during consideration of H.R. 7535, authorizing federal assistance to the states and local communities in financing an expanded program of school construction to eliminate a national shortage of classrooms, Chairman

---

[2] 112 CONG. REC. 26205, 89th Cong. 2d Sess.

[3] 102 CONG. REC. 11873, 11875, 84th Cong. 2d Sess.

Francis E. Walter, of Pennsylvania, stated the practice of the Chair in ruling on the ambiguity of an amendment.

Mr. [Adam C.] Powell [Jr., of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Powell: On page 26, after line 12, insert a new title IV:
>
> "That there shall be no Federal funds allotted or transferred to any State which fails to comply with the provisions of the Supreme Court."

After debate, an amendment to the amendment was offered as follows:

Amendment offered by Mr. [James] Roosevelt [of California] to the Powell amendment: Strike the word "provisions" and insert the word "decisions."

Mr. [Ross] Bass of Tennessee: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Bass of Tennessee: I make the point of order that the amendment is not germane to the bill.

The Chairman: It is certainly germane to the amendment offered by the gentleman from New York to substitute the word "decisions" for the word "provisions." The Chair so rules.

Mr. Bass of Tennessee: Mr. Chairman, a further point of order.

The Chairman: The gentleman will state it.

Mr. Bass of Tennessee: I make the point of order that the word "provisions" is ambiguous and has no meaning whatever and would make the amendment not germane.

The Chairman: The Chair does not rule on the question of ambiguity. It is a question of germaneness solely, and the Chair has ruled that the amendment is germane.

Consistency of Amendments

§ 8.6 The Chairman does not rule on the consistency of amendments.

On Aug. 16, 1961,[4] the Committee of the Whole by teller vote of 197 ayes, 185 noes, agreed to the following substitute amendment to H.R. 8400, the Mutual Security Act of 1961, authorizing appropriations to the President:

Amendment offered by Mr. [Dalip S.] Saund, of California, as a substitute for the amendment offered by Mr. Morgan, of Pennsylvania: On page 7, strike out line 13 and all that follows down through line 7 on page 9, and insert in lieu thereof the following:

> Sec. 202. Capitalization.—(a) There is hereby authorized to be appropriated to the President not to exceed $1,200,000,000 for use beginning in the fiscal year 1962 to carry out the purposes of this title, which sums shall remain available until expended.

The following day, Aug. 17, 1961,[5] the Committee again met, with Wilbur D. Mills, of Arkansas, in the Chair, to consider other amendments to the same bill:

---

[4] 107 Cong. Rec. 16060, 16073, 87th Cong. 1st Sess.

[5] *Id.* at p. 16188. See 119 Cong. Rec. 25828, 93d Cong. 1st Sess., July 25,

THE CHAIRMAN: When the Committee rose on yesterday the Clerk had read through section 202 ending in line 13, page 3 of the bill.

If there are no further amendments to section 202, the Clerk will read.

MR. [LAURENCE] CURTIS of Massachusetts: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Curtis of Massachusetts: In section 202 add a new subsection to be numbered (b), and re-letter the other subsections accordingly, to read as follows:
>
> "(b) There is hereby authorized to be appropriated to the President without fiscal year limitation to carry out the purposes of this title not to exceed $1,000,000,000 for the fiscal year 1963, and not to exceed $1,000,000,000 for the fiscal year 1964."

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN: The gentleman will state his point of order.

MR. SMITH of Virginia: Mr. Chairman, in order to see if we can find out where we are at, I would like to know first what becomes of the amendment that was adopted on yesterday. It is in the bill. There is no provision in this amendment which strikes it out. Does it remain in the bill; and if it does not remain in the bill, how does it get out?

THE CHAIRMAN: That provision adopted yesterday remains in the bill; and, as the Chair understands the situation, it would not be affected by this amendment. This amendment would be in addition to that which was acted on yesterday.

MR. SMITH of Virginia: Mr. Chairman, the two amendments are in direct conflict. We have adopted one amendment which says that this shall be for 1 year by direct appropriation, then we adopt another amendment, both of which the Chairman informs us will be in the bill. In the other amendment we made it a 3- or 4-year proposition and cut the appropriation. . . .

MR. [E. ROSS] ADAIR [of Indiana]: Mr. Chairman, I should like to urge a further point of order against the proposed amendment, first, on the basis that the subject matter of that amendment was acted upon yesterday and therefore it is not appropriate to reopen the matter at this time. Second, if I understood the place in the bill to which it is offered, since we already have a section (b) in there, it would be section (c), and I urge the Chair that it is not germane at that point. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Massachusetts [Mr. Curtis] offers an amendment to section 202 of the bill to which the gentleman from Virginia makes a point of order.

Permit the Chair to say that it is not the province of the Chair to rule on whether matters are consistent or not. That is within the judgment of the com-

---

1973; 103 CONG. REC. 13501, 85th Cong. 1st Sess., Aug. 2, 1957; and 95 CONG. REC. 11994, 81st Cong. 1st Sess., Aug. 22, 1949, for other rulings that the Chairman does not rule on the consistency of amendments.

mittee. The amendment adopted yesterday included the deletion of paragraph (b) of section 202 as a part of the amendment. So, the Chair will say that there is at the moment no paragraph (b) in the bill. This is new material. It is germane to the subject of section 202, and the Chair overrules the point of order.

§ 8.7 The Chairman does not rule on the consistency of a proposed amendment with another amendment already adopted.

On July 25, 1973,(6) during consideration of H.R. 8480, the Impoundment Control Act, Chairman Dante B. Fascell, of Florida, declined to rule that a proposed amendment was inconsistent with an amendment which had already been adopted.

MR. [JOHN B.] ANDERSON of Illinois: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Anderson of Illinois: On page 11, after line 10, add the following new section:
>
> "Sec. 109. The foregoing provisions of this title shall take effect on January 1, 1974."

MR. [RICHARD] BOLLING [of Missouri]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN: The gentleman will state his point of order.

MR. BOLLING: The point of order is that the amendment is not germane.

MR. ANDERSON of Illinois: Mr. Chairman, if I may be heard on the point of order, I think perhaps the distinguished gentleman from Missouri and my colleague on the Committee on Rules has not correctly understood the amendment, because it is not the amendment that says that the foregoing provisions of this title; namely, title I, shall take effect on the effective date of this legislation which improves congressional control over budgetary outlay and the receipt totals in a comprehensive manner but merely fixes a date and says that the provisions of title I shall not become effective until January 1, 1974.

MR. BOLLING: Mr. Chairman, then this amendment should have been offered at a different place as an amendment to the Heinz amendment, or else it is in effect a redundancy.

MR. ANDERSON of Illinois: Mr. Chairman, if I may be heard further on the point of order, as I understand the Heinz amendment it has the effect of making it merely a 1-year bill. In other words, the antiimpoundment provisions would expire at the end of the current fiscal year. My amendment says that title I, the antiimpoundment provision, does not commence, does not become effective as a matter of law until January 1, 1974.

THE CHAIRMAN: The Chair is prepared to rule.

The amendment offered by the gentleman from Illinois (Mr. Anderson) provides that title I shall take effect on

---

6. 119 CONG. REC. 25828, 93d Cong. 1st Sess. See 119 CONG. REC. 41306, 41308, 41688, 41689, 93d Cong. 1st Sess., Dec. 13, and 14, 1973, respectively, for a similar ruling.

January 1, 1974. The amendment is objected to because of inconsistency and also because it is not germane. The Chair cannot rule on the consistency of the amendment offered by the gentleman from Illinois (Mr. Anderson) but the amendment certainly fixes a date certain which is not an unrelated contingency. The amendment is germane and therefore the Chair overrules the point of order.

§ 8.8 While an amendment may not change an amendment already agreed to, an amendment that involves similar but not identical subjects to follow the adopted amendment is in order; and the Chair will not rule on the consistency of those amendments.

On Dec. 14, 1973,(7) during consideration of H.R. 11450, the Energy Emergency Act, Chairman Richard Bolling, of Missouri, overruled points of order in part on the ground that the Chairman does not rule on the consistency of amendments.

Amendment offered by Mr. [William R.] Roy [of Kansas] to the amendment in the nature of a substitute offered by Mr. Staggers: Page 36, line 23, strike out the quotation marks.

Page 36, insert after line 23 the following:

"(9) (A) This subsection shall not apply to the first sale of crude oil or petroleum condensates produced from any lease within the United States by a seller (i) who produced such oil or condensate, (ii) who (together with all persons who control, are controlled by or who are under common control with, such seller), produces in the aggregate less than 25,000 barrels per day of crude oil and petroleum condensates, averaged annually, and (iii) who is not a refiner or marketer or distributor of refined petroleum products (or a person who controls, is controlled by, or is under common control with such a refiner, marketer, or distributor).

"(B) For purposes of subparagraph (A)—

"(i) a person produces crude oil or petroleum condensates only if he has an interest in the production thereof which permits him to take his production (or share thereof) in kind, and

"(ii) the term 'control' means control by ownership.". . .

The Chairman: The question is on the amendment offered by the gentleman from Kansas (Mr. Roy) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers). . . .

The vote was taken by electronic device, and there were—ayes 189, noes 194, not voting 49, as follows: . . .

Amendment offered by Mr. [Joe] Skubitz [of Kansas] to the amendment in the nature of a substitute offered by Mr. Staggers: Page 36, line 23, strike out the quotation marks.

Page 36, insert after line 23 the following:

"(9) This subsection shall not apply to the first sale of crude oil described in

---

7. 119 Cong. Rec. 41725–30, 41740, 93d Cong. 1st Sess.

subsection (e)(2) of this section (relating to stripper wells).". . .

The Chairman: The question is on the amendment offered by the gentleman from Kansas (Mr. Skubitz) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. . . .

Mr. [Robert D.] Price of Texas: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

> Amendment offered by Mr. Price of Texas to the amendment in the nature of a substitute offered by Mr. Staggers: Page 36, line 23, strike out the quotation marks.
>
> Page 36, insert after line 23 the following:
>
> "(9)(A) This subsection shall not apply to the first sale of crude oil or petroleum condensates produced from any lease within the United States by a seller (i) who produced such oil or condensate, (ii) who (together with all persons who control, are controlled by or who are under common control with, such seller), produces in the aggregate less than 5,000 barrels per day of crude oil and petroleum condensates, averaged annually, and (iii) who is not a refiner or marketer or distributor of refined petroleum products (or a person who controls, is controlled by, or is under common control with such a refiner, marketer, or distributor).

Mr. [Silvio O.] Conte [of Massachusetts]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state his point of order.

Mr. Conte: Mr. Chairman, my point of order is that we have already considered the amendment before today. It was the Roy amendment, and therefore a point of order should lie against it.

Mr. [John D.] Dingell [of Michigan]: Mr. Chairman, I would like to be heard also on the point of order.

The Chairman: The Chair will state that as the Chair understands the amendment the figure has been changed, therefore it is not the same amendment since the figure has been changed.

Mr. Dingell: May I be heard on the point of order?

Mr. [Robert C.] Eckhardt [of Texas]: Mr. Chairman, I would like to speak against the point of order.

The Chairman: May the Chair suggest that the Clerk complete the reading of the amendment, and then I will recognize the gentleman on his point of order.

The Clerk read the remainder of the amendment, as follows:

> (B) For purposes of subparagraph (A)—
>
> (i) a person produces crude oil or petroleum condensates only if he has an interest in the production thereof which permits him to take his production (or share thereof) in kind, and
>
> (ii) the term "control" means control by ownership.

The Chairman: The gentleman from Massachusetts will be heard on his point of order.

Mr. Conte: Mr. Chairman, I insist on the point of order even though the amendment changes the figures. The amendment is now in the third degree, and therefore the point of order should be upheld.

Mr. Dingell: Mr. Chairman, I make a point of order on the grounds that this is again bringing before the Committee a portion of the bill which has already been amended. As the Chair recalls, we adopted the Skubitz amendment, which dealt with the same subject matter, and at the same place, and I submit, regardless of the point of order raised by the gentleman from Massachusetts (Mr. Conte) that this is a violation of the Rules of the House as an attempt to redo action earlier taken by the Committee with regard to the Skubitz amendment, which was likewise dealing with the limitation on the coverage of the particular section to include coverage of people who operate stripper wells.

Mr. Eckhardt: Mr. Chairman, I speak against the point of order. The Skubitz amendment dealt in an entirely different subject matter. The Skubitz amendment dealt with oil produced by well, not oil produced by producer, and provided that in those cases of wells producing less than, as I recall, 10 barrels per day, these should be exempted.

The amendment here is not dealing with stripper wells. It has nothing to do with wells. It has to do with the size of the producers. Therefore, this subject matter has not been previously covered. This does not change the Skubitz amendment at all, and it deals with a different subject.

Of course, the point of order with respect to the proposition that this is in the third degree is frivolous, because this is introduced as an additional amendment, and the amendment is different materially from the 25,000 barrels.

Mr. Dingell: Mr. Chairman, I again note, with the assistance of the Chair, that the Skubitz amendment and the amendment now before us appear at precisely the same place in the bill.

Mr. Chairman: For the reasons stated by the gentleman from Texas (Mr. Eckhardt) because the Chair does not rule on the inconsistency of amendments, and the fact that the number of barrels involved in this amendment is different from that in the former amendment, the Chair overrules the points of order, and the amendment will be voted on.

Propriety of Considering Amendment Identical to a Previously Passed Bill

§ 8.9 The Committee of the Whole and not the Chair decides whether it may consider an amendment consisting of the exact language agreed to in a bill previously passed by the House.

On May 13, 1946,(8) during consideration of Senate Joint Resolution 159, to extend the Selective Training and Service Act, Chairman Alfred L. Bulwinkle, of North Carolina, stated that the Committee

---

8. 92 Cong. Rec. 4957, 79th Cong. 2d Sess.

of the Whole, not the Chair, would decide whether an amendment to the resolution would be considered.

The Clerk read as follows:

> *Resolved, etc.*, That section 16(b) of the Selective Training and Service Act of 1940, as amended, is amended by striking out "May 15, 1946" and inserting "July 1, 1946."

MR. [DEWEY] SHORT [of Missouri]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Short: Strike out all after the enacting clause of Senate Joint Resolution 159 and insert the following:
>
> "That so much of the first sentence of section 3 (a) of the Selective Training and Service Act of 1940, as amended, as precedes the first proviso is amended to read as follows:
>
> "'Sec. 3. (a) Except as otherwise provided in this act, every male citizen of the United States, and every other male person residing in the United States, who is between the ages of 20 and 30, at the time fixed for his registration, or who attains the age of 20 after having been required to register pursuant to section 2 of this act, shall be liable for training and service in the land or naval forces of the United States. . . .'"

MR. [WALTER G.] ANDREWS of New York: Mr. Chairman, I make a point of order against the amendment just offered by the gentleman from Missouri on the ground that the exact language in another bill has been acted on favorably by the House.

THE CHAIRMAN: The Chair states to the gentleman from New York [Mr. Andrews] that that is a matter for the committee to pass on, not the Chairman. The Chair overrules the point of order.

Constitutionality of Proposed Amendment

§ 8.10 The Chairman does not rule on the constitutionality of proposed amendments.

On Aug. 19, 1965,(9) during consideration of an amendment to H.R. 9811, the Food and Agriculture Act of 1965, Chairman Oren Harris, of Arkansas, overruled a point of order that an amendment was unconstitutional.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Whitten: Page 14 following the word "follows" in line 15 add the following:
>
> "For such period as the Secretary of Agriculture shall carry out the provisions of the Export Sales Act of 1956 (7 U.S.C. 1853) the following changes shall be made in the Agricultural Adjustment Act of 1938, as amended.". . .

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, may I state my point of order?

THE CHAIRMAN: The gentleman will state his point of order.

MR. COOLEY: Mr. Speaker, I make a point of order against the amendment not because of germaneness, but because it is an unconstitutional and

---

9. 111 CONG. REC. 21016, 89th Cong. 1st Sess.

unwarranted delegation of the power of Congress to some unknown person or to some unknown agency to make the determinations contemplated by the gentleman's amendment. We have no right to delegate this authority to any other person. . . .

THE CHAIRMAN: Does the gentleman from Mississippi wish to be heard on the point of order?

MR. WHITTEN: Mr. Chairman, I wish to be heard on the point of order. Certainly I do not believe that there is any case where the Congress does not have a right to set the terms and conditions upon which any legislation may become affected. The law to which I referred is on the statute books and the reference made to it says that the provisions of this act shall be effective only as this other law is carried out.

Mr. Chairman, I think that certainly an objection might be in order, but I do not think there is any question insofar as the point of order is concerned. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Mississippi offers an amendment to this title which the Clerk has reported which proposes to amend title IV, section 401.

The Chair has had occasion to observe the provisions of the law included in title VII of the United States Code to which the amendment refers, imposing the duty on the Secretary of Agriculture in carrying out certain provisions of the program.

The gentleman from North Carolina raises a point of order on the question that the amendment is unconstitutional—on the grounds of unconstitutionality. Of course that is a matter on which the Chair does not pass. That is a matter for the Committee to determine and, therefore, the Chair overrules the point of order.

Authority to Allocate Debate Time on Amendments

§ 8.11 Where the Committee of the Whole fixes the time for closing debate on pending amendments, the Chair notes the names of the Members seeking recognition at the time the limitation is agreed to and divides the time equally between them.

On Aug. 18, 1949,(10) during consideration of H.R. 5895, the Mutual Defense Assistance Act of 1949, Chairman Wilbur D. Mills, of Arkansas, noted the names of Members seeking recognition and allocated the time equally among them after the Committee of the Whole fixed the time for debate on pending amendments.

> MR. [JOHN] KEE [of West Virginia]: Mr. Chairman, I ask unanimous consent that all debate on the pending amendments and all amendments thereto close in 1 hour.
>
> THE CHAIRMAN: Is there objection to the request of the gentleman from West Virginia?
>
> There was no objection. . . .

---

10. 95 CONG. REC. 11760, 81st Cong. 1st Sess.

Mr. [**Earl**] **Wilson** of Indiana: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Wilson of Indiana: There were a certain number of us on our feet when the unanimous-consent request was propounded. After the time was limited, about twice as many people got on their feet to be recognized.

The Chairman: The Chair is endeavoring to ascertain those Members who desire to speak, and has no disposition to violate any rights of freedom of speech.

Mr. Wilson of Indiana: Further pressing my point of order, is it in order after the time is limited for others to get the time that we have reserved for ourselves? I would like to object under the present situation.

The Chairman: Permit the Chair to answer the gentleman. If the gentleman from Indiana will ascertain and indicate to the Chair the names of the Members who were not standing at the time the unanimous-consent request was agreed to, the gentleman will render a great service to the Chair in determining how to answer the gentleman.

Mr. [**Robert F.**] **Rich** [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Rich: That is not the duty of the gentleman from Indiana. That is the duty of the Clerk.

The Chairman: The gentleman from Pennsylvania and the Chair both understand that, but apparently all Members do not. The Chair is endeavoring to do the best he can to ascertain those who desire to speak under this limitation of time. Now permit the Chair to ascertain that.

Mr. [**Clare E.**] **Hoffman** of Michigan: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Hoffman of Michigan: Will the Chair, with the assistance of the Clerk, advise me how many Members have asked for time, and how much time each Member will be allotted?

The Chairman: Each of the Members whose names appear on the list will be recognized for 2 minutes, there being 30 Members on their feet at the time and debate having been limited to 1 hour.

§ 9. —Appeals of Rulings

Debate on an appeal in the Committee of the Whole is under the five-minute rule(11) and may be closed by a motion to close debate or to rise and report.(12) In recogniz-

---

11. § 9.6, infra; see also note to Rule I clause 4, *House Rules and Manual* § 628 (1979); and 7 Cannon's Precedents § 1608.
12. Rule I clause 4, *House Rules and Manual* § 628 (1979); 5 Hinds' Precedents §§ 6947, 6950; and 8 Cannon's Precedents § 3453.

In an exceptional case the Committee of the Whole rose and reported a question of order for decision of the House when an appeal was taken from ing Members for debate on an appeal in the Committee of the Whole, the Chairman alternates between those favoring and those opposing the ruling.(13)

Rule I clause 4,(14) which relates to authority of the Speaker, provides that no Member shall speak more than once on appeal, unless by permission of the House; and this provision is applicable to Members rising for that purpose in the Committee.(15)

Propriety of Appeal

§ 9.1 A decision of the Chairman of the Committee of the Whole can be appealed.

On July 19, 1956,(16) after ruling that an amendment to H.R. 627, to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States was not germane,(17) Chairman Aime J. Forand, of Rhode Island, stated his opinion as to whether a decision of the Chairman of the Committee of the Whole was subject to appeal.(18)

> Mr. [Howard W.] Smith of Virginia: Mr. Chairman, I appeal from the decision of the Chair.
>
> Mr. [Byron G.] Rogers of Colorado: Mr. Chairman, a point of order.
>
> The Chairman: The gentleman will state it.
>
> Mr. Rogers of Colorado: Can the decision of the Chairman of the Committee of the Whole be appealed, under the rules?
>
> The Chairman: It can.

---

a ruling of a Chairman; in that instance, the Chairman had ruled that an appeal could not be taken in the Committee. 4 Hinds' Precedents § 4783.

13. 8 Cannon's Precedents § 3455.

14. *House Rules and Manual* § 624 (1979).

15. See 2 Hinds' Precedents § 1313; and 5 Hinds' Precedents § 6938. Although this principle has not been explicitly extended to the Committee of the Whole, it applies because of Rule XXIII clause 9, *House Rules and Manual* § 877 (1979), which provides that the rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable. See Jefferson's Manual, *House Rules and Manual* § 340 (1979); 4 Hinds' Precedents § 4737; and 8 Cannon's Precedents § 2605.

16. 102 Cong. Rec. 13551, 13552, 84th Cong. 2d Sess.

17. See § 9.2, infra, for that ruling and an appeal.

18. See §§ 9.4, 9.5, infra, for examples of the sustaining or overruling of decisions of Chairmen.

§ 9.2 An appeal from the decision of the Chairman of the Committee of the Whole as to the germaneness of an amendment to a bill is in order.

On July 19, 1956,(19) during consideration of H.R. 627, to provide means of further securing and protecting the civil rights of certain persons, Chairman Aime J. Forand, of Rhode Island, stated that an appeal from a ruling of the Chairman of the Committee of the Whole as to the germaneness of an amendment to a bill was in order.

H.R. 627 contained the following provision relating to the duties of the Civil Rights Commission:

> Sec. 103. (a) The Commission shall—(1) investigate the allegations that certain citizens of the United States are being deprived of their right to vote or are being subjected to unwarranted economic pressures by reason of their color, race, religion, or national origin.

An amendment to this provision was offered, as follows:

> Mr. [Donald L.] Jackson [of California]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Jackson: On page 21 strike out lines 9 through 13 and insert the following: "(1) investigate the allegations that certain citizens of the United States are being deprived of their right to vote or obtain employment, or are being subjected to unwarranted economic pressures, by reason of their color, race, religion, national origin, or membership or nonmembership in a labor or trade organization."
>
> Mr. [Emanuel] Celler [of New York]: Mr. Chairman, a point of order.
>
> The Chairman: The gentleman will state it.
>
> Mr. Celler: I make the point of order that the amendment is not germane. . . .
>
> Very briefly, Mr. Chairman. I believe the amendment would change the whole complexion of the bill. The purpose of the bill is to prevent and to redress deprivation of constitutional civil rights on the grounds of race, color, religion, or national origin. All through the provisions setting forth the duties of the Commission we find the words "race, color, religion, or national origin." That part that the gentleman read contained the words "economic pressures" and the phrase in the bill reads: "Unwarranted economic pressures by reason of their color, race, religion, or national origin."
>
> For that reason, I insist on my point order. . . .
>
> The Chairman: The Chair is ready to rule. The gentleman from California [Mr. Jackson] has offered an amendment to the bill H.R. 627 now under consideration. The Chair has examined the amendment and also the language of the bill as referred to by the gentleman from California. The Chairman finds that the bill itself has to do with matters of economic pressure by reason

---

19. 102 Cong. Rec. 13551, 13552, 84th Cong. 2d Sess.

of their color, race, religion, or national origin.

The amendment of the gentleman from California goes beyond that and extends to membership or nonmembership in labor or trade organizations. The Chair holds that the amendment is not germane. The point of order is sustained.

Mr. [Howard W.] Smith of Virginia: Mr. Chairman, I appeal from the decision of the Chair. . . .

The Chairman: . . . The question is, Shall the decision of the Chair stand as the judgment of the Committee?

The question was taken; and the Chairman announced that the ayes had it.

So the decision of the Chairman stood as the judgment of the Committee.

Issues to Be Voted on

§ 9.3 On appeal from a ruling of the Chairman of the Committee of the Whole on an amendment, the vote is not on the merits of the proposed amendment, but on the correctness of the decision of the Chair.

On July 19, 1956,(20) during consideration of H.R. 627, to further secure and protect the civil rights of certain persons, an appeal was taken from a ruling by the Chair on an amendment.(1) Chairman Aime J. Forand, of Rhode Island, indicated that the vote on appeal from such a ruling is on sustaining or overruling the decision of the Chairman, not on the merits of the proposed amendment.

Mr. [Kenneth B.] Keating [of New York]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Keating: On this appeal from the ruling of the Chair, do I understand correctly that in voting on it we are voting not on the merits of the proposition submitted by the gentleman from California but rather on whether the Chair is correct in his ruling?

The Chairman: That is correct.

Effect of Refusal of Tellers

§ 9.14 The Committee of the Whole has sustained a ruling of the Chair that, once tellers have been properly refused, they cannot again be demanded on the same question.

On June 13, 1957,(2) during consideration of H.R. 6127, a civil rights bill, an appeal was taken from a ruling of the Chairman regarding the sufficiency of the number of Members who rose on a demand for tellers.

The Chairman:(3) All time has expired. The question is on the amendment offered by the gentleman from Virginia [Mr. Tuck].

---

(20) 102 Cong. Rec. 13551, 13552, 84th Cong. 2d Sess.

(1) See § 9.2, supra, for a discussion of this appeal.

(2) 103 Cong. Rec. 9034, 9035, 85th Cong. 1st Sess.

(3) Aime J. Forand (R.I.).

The question was taken and the Chair announced that the ayes appeared to have it.

Mr. [John D.] Dingell [Jr., of Michigan]: Mr. Chairman, I demand tellers.

Tellers were refused.

Mr. [Kenneth B.] Keating [of New York]: Mr. Chairman, I ask for a division.

Mr. [Frank L.] Chelf [of Kentucky]: Mr. Chairman, the request comes too late.

Mr. [William M.] Colmer [of Mississippi]: Mr. Chairman, a point of order. The request does come too late.

Mr. [William M.] Tuck: Mr. Chairman, I make the point of order that the Chair had already ruled.

The Chairman: This is the situation. The request for a teller vote was turned down. The gentleman from New York [Mr. Keating] made a request for a division vote. He is within his rights.

The Committee divided; and there were—ayes 106, noes 114.

Mr. Colmer: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Colmer: Would it be in order to have tellers?

The Chairman: Tellers have been refused.

Mr. [Ross] Bass of Tennessee: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Bass of Tennessee: Mr. Chairman the tellers were refused after the Chair had ruled and said that the amendment was agreed to. Then tellers were demanded, and those people who now want tellers felt that the amendment was agreed to, so they did not rise to ask for tellers; and I can get the House to agree with me. I make that point of order and ask the Chair to rule on it.

The Chairman: The Chair will rule that on the demand for tellers an insufficient number of Members rose to their feet.

Mr. Bass of Tennessee: I disagree with the ruling of the Chair and ask for a vote on the ruling of the Chair. I say that he had already ruled on the vote.

The Chairman: Does the gentleman appeal from the ruling of the Chair?

Mr. Bass of Tennessee: I appeal from the ruling of the Chair.

Mr. [William J.] Green [Jr.] of Pennsylvania: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Green of Pennsylvania: Mr. Chairman, it is too late for the gentleman to appeal from the ruling of the Chair.

The Chairman: The gentleman has appealed from the ruling of the Chair.

The question is, Shall the decision of the Chair stand as the judgment of the Committee?

The question was taken, and the Chairman announced that the ayes apparently had it.

Mr. Bass of Tennessee: Mr. Chairman, I demand a division.

The Committee divided; and there were—ayes 222, noes 4.

So the decision of the Chair stands as the judgment of the Committee.

Mr. [Clare E.] Hoffman [of Michigan]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state the parliamentary inquiry.

Mr. Hoffman: Mr. Chairman, is it now in order to ask for tellers after the rising vote?

The Chairman: It is not in order. The question was taken on the amendment and the question was decided.

Parliamentarian's Note: The Chair's actual count on a vote is not subject to challenge by appeal.(4)

Power to Overrule Decision on Appeal

§ 9.5 On appeal the Committee of the Whole has overruled a decision of the Chairman on a point of order.

On Feb. 1, 1938,(5) during consideration of H.R. 9181, the District of Columbia appropriation bill of 1939, the Committee of the Whole heard an appeal on a decision of the Chairman that a point of order against an amendment was not timely.

The Clerk read as follows:

> Amendment offered by Mr. Collins: On page 68, line 20, after the period, insert a new paragraph as, follows:
>
> "Street lighting: For purchase, installation, and maintenance of public lamps, lampposts, street designations, lanterns, and fixtures of all kinds on streets, avenues, roads,

---

4. See Ch. 31, infra, for discussion of appeals from rulings of the Chair. See also Ch. 30, infra, for general discussion of voting.

For other instances in which a ruling of the Chair was sustained on appeal, see § 9.2, supra, §§ 9.6, 9.7, infra; 106 Cong. Rec. 5477–79, 86th Cong. 2d Sess., Mar. 14, 1960 (a germaneness ruling during consideration of H.R. 8601, "to enforce constitutional rights"); 96 Cong. Rec. 2178, 81st Cong. 2d Sess., Feb. 22, 1950 (a ruling regarding a Member's right to yield for the purpose of offering a motion to rise during consideration of H.R. 4453, the Federal Fair Employment Practice Act); 91 Cong. Rec. 9846, 9867–70, 79th Cong. 1st Sess., Oct. 19, 1945 (a germaneness ruling during consideration of H.R. 5407, reducing appropriations); 88 Cong. Rec. 1708–12, 77th Cong. 2d Sess., Feb. 26, 1942 (a germaneness ruling during consideration of S. 2208, the second war powers bill, 1942); 88 Cong. Rec. 606, 77th Cong. 2d Sess., Jan. 23, 1942 (a ruling on timeliness of a point of order during consideration of H.R. 6448, the fourth supplemental national defense appropriation bill, 1942); 81 Cong. Rec. 7698–7701, 75th Cong. 1st Sess., July 27, 1937 (a germaneness ruling during consideration of H.R. 7730, authorizing the President to appoint administrative assistants).

5. 83 Cong. Rec. 1372, 1373, 75th Cong. 3d Sess. See also Ch. 31, infra, for appeals of the Chair's rulings on points of order.

alleys, and for all necessary expenses in connection therewith, including rental of storerooms, extra labor, operation, maintenance, and repair of motortrucks, this sum to be expended in accordance with the provisions of existing law, $765,000: *Provided*, That this appropriation shall not be available for the payment of rates for electric street lighting in excess of those authorized to be paid in the fiscal year 1927, and payment for electric current for new forms of street lighting shall not exceed 2 cents per kilowatt-hour for current consumed."

Mr. [Ross A.] Collins [of Mississippi]: Mr. Chairman, the language that is incorporated in the amendment——

Mr. [Jack] Nichols [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment.

Mr. Collins: Eliminates the language against which the gentleman made the point of order.

Mr. Chairman, I make the point of order that the gentleman's point of order comes too late.

The Chairman:(6) The gentleman from Oklahoma makes a point of order on the amendment, and the gentleman from Mississippi makes the point of order that the point of order made by the gentleman from Oklahoma comes too late.

The point of order of the gentleman from Mississippi is sustained. . . .

Mr. Nichols: If the Chair did recognize the gentleman from Mississippi I may say the Chair recognized him while I was on my feet taking the only opportunity presented to me to address the Chair, in order that I might direct my point of order to the Chair.

The Chairman: That may be true. The Chair does not care to indulge in any controversy on that question with the gentleman from Oklahoma. The Chair is merely stating what occurred. The Chair may state further to the gentleman from Oklahoma, in deference to the situation which has developed here, that if that had been true, under the rules it would have been the duty of the Chair to have recognized a member of the committee in preference to any other Member on the floor. The Chair was acting under the limitations of the rule. . . .

Mr. [Jesse P.] Wolcott [of Michigan]: Mr. Chairman, the rule, as I understand it, is that if any action is taken on the amendment, then the point of order is dilatory. The only action that could have been taken was recognition by the Chair of the gentleman from Mississippi to debate his amendment.

I want to call the attention to the Chair to the fact that the only manner in which the Chair can recognize a Member to be heard on this floor is to refer to the gentleman either by name or by the State from which the gentleman comes, and I call the attention of the Chair to the fact that the Chair in this particular instance did not say he recognized the gentleman from Mississippi or the gentleman [Mr. Collins], and for that reason there was no official proceeding and no official action taken between the time that the amendment was offered and the time the gentle-

---

6. William J. Driver (Ark.).

man from Oklahoma made his point of order, and therefore the point of order was not dilatory.

THE CHAIRMAN: The Chair desires, in all fairness, to make this statement to the Committee, as well as directly to the gentleman from Michigan. Not only was the gentleman from Mississippi recognized, but he began an explanation of his amendment, and the Chair certainly presumes that the gentleman being on the floor at the time heard that; and when that occurred, the Chair does not think the gentleman will disagree with the Chair about the fact that the Chair is required, under the rules, to rule in deference to the situation that developed. The Chair does not desire to forestall proceedings and would be pleased to hear points of order, but the Chair must act within the definition of the rule.

MR. WOLCOTT: If the Chair will indulge me for a moment in that respect, the point I wish to make is this. The gentleman from Mississippi had no authority to address this Committee until he had been recognized by the Chair, and if the gentleman from Oklahoma made his point of order during a brief sentence by someone which had no right under the rules of this House even to be reported by the official reporter, then he cannot be estopped, under those circumstances, from making his point of order. The Chair of necessity must have recognized the gentleman from Mississippi to debate the amendment.

The offering of an amendment is not a proceeding which will estop the gentleman from Oklahoma from making his point of order. It is recognition by the Chair of another gentleman to discuss the amendment, and the gentleman could have discussed the amendment only after recognition was given.

I want respectfully to call this to the attention of the Chair in order that the Chair may correct any error which has been made or any seeming injustice to the gentleman from Oklahoma, and I respectfully submit that the Chair did not recognize the gentleman from Mississippi, and I believe the Record will bear this out. . . .

MR. NICHOLS: If the Chair has made a final ruling, I would, in the most respectful manner I know, request an appeal from the decision of the Chair.

THE CHAIRMAN: The gentleman from Oklahoma appeals from the decision of the Chair on the ruling of the Chair on the point of order, as stated.

The question before the Committee is, Shall the ruling of the Chair stand as the judgment of the Committee?

The question was taken, and the Chair announced that the noes had it.

So the decision of the Chair does not stand as the judgment of the Committee.

Debate on Appeal

§ 9.6 An appeal in the Committee of the Whole is debatable under the five-minute rule and such debate is confined to the appeal.

On Feb. 22, 1950,(7) during general debate on H.R. 4453, the Federal Fair Employment Practices

---

7. 96 CONG. REC. 2178, 81st Cong. 2d Sess.

Act, Chairman Francis E. Walter, of Pennsylvania, set forth the limitations on debate on an appeal in the Committee of the Whole.

The Chairman: The gentleman from South Carolina . . . cannot yield to the gentleman from Virginia for the purpose of offering that motion [that the Committee rise].

Mr. [Howard W.] Smith of Virginia: Mr. Chairman, I respectfully appeal from the decision of the Chair.

The Chairman: The question is, Shall the decision of the Chair be sustained?

Mr. [John E.] Rankin [of Mississippi]: Mr. Chairman, I make a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Rankin: Mr. Chairman, is that appeal debatable?

The Chairman: Under the 5-minute rule; yes.

Mr. Rankin: Mr. Chairman, I would like to be heard.

The Chairman: The gentleman is recognized. The Chair will say that the discussion is now on the appeal. . . .

Mr. [Vito] Marcantonio [of New York]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Marcantonio: I make the point of order that the gentleman from Mississippi must direct his remarks to the question of the appeal from the ruling of the Chair.

The Chairman: The gentleman is correct. . . .

The question is, Shall the decision of the Chair be the judgment of the Committee?

The question was taken; and the Chair being in doubt, the Committee divided and there were—ayes, 123, noes, 77.

Mr. Smith of Virginia: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Powell and Mr. Smith of Virginia.

The Committee again divided; and the tellers reported that there were—ayes 148, noes 83.

So the decision of the Chair stands as the judgment of the Committee.(8)

Vacating Chair to Put Appeal

§ 9.7 After an appeal was taken from a decision of the Chairman of the Committee of the Whole, the Chairman left the chair to permit another Chairman to put the question.

On Oct. 19, 1945,(9) after sustaining a point of order that a proposed amendment was not germane to H.R. 4407, reducing appropriations, and hearing debate on an appeal of that ruling, Chairman Fritz G. Lanham, of Texas, left the chair to permit Chairman Jere Cooper, of Ten-

---

8. See also 88 Cong. Rec. 1708–12, 77th Cong. 2d Sess., Feb. 26, 1942, for a similar ruling.

9. 91 Cong. Rec. 9846, 9868–70, 79th Cong. 1st Sess.

nessee, to put the question whether the decision of the Chair should stand as the judgment of the Committee of the Whole.[10]

> The Clerk read as follows:
>
> *Be it enacted, etc.*, That the appropriations and contractual authorizations of the departments and agencies available in the fiscal year 1946, and prior year unreverted appropriations, are hereby reduced in the sums hereinafter set forth. . . .
>
> The officer and enlisted personnel strengths of the Army, Navy, Marine Corps, and Coast Guard shall be demobilized at a rate not less than would be necessary to keep within the amounts available for their pay in consequence of the provisions of this act, unless the President otherwise shall direct. . . .

The following amendment was offered:

> The Clerk read as follows:
>
> Amendment offered by Mr. [John E.] Rankin [of Mississippi]: On page 36, line 7, after the word "direct", strike out the period, insert a colon and the following:
>
> "*Provided*, That (a) there shall be discharged from, or released from active duty in, the military or naval forces of the United States without delay, any person who requests such discharge or release and who—
>
> "(1) has served on active duty 18 months or more since September 16, 1940; or
>
> "(2) has, at the time of making such request, a wife or a child or children with whom he maintains (or would but for his service maintain) a bona fide family relationship in his home. . . ."
>
> Mr. [Emmet] O'Neal [of Kentucky]: . . . I make the point of order that the amendment offered by the gentleman from Mississippi is not germane to the bill. . . .
>
> The Chairman: Does the gentleman from Kentucky desire to be heard on the point of order?
>
> Mr. O'Neal: . . . This is writing a legislative bill in here. It is so far beyond anything in this bill that I do not believe there is any question but that the Chair will have to declare it not germane, and therefore not in order.
>
> The Chairman: The Chair is ready to rule.
>
> The question before the Chair does not concern the merits of the provisions of the amendment offered by the gentleman from Mississippi. It is the duty of the Chair simply to pass upon the point of order from a parliamentary standpoint, as to whether or not the amendment is germane.
>
> The amendment offered by the gentleman from Mississippi is clearly a general legislative expression and proposes substantive law, whereas the provision in the bill to which the amendment is offered is merely the expression of a hope that within the amounts available for their pay and in consequence of the provisions of this act demobilization will be carried on as rapidly as possible.
>
> In the opinion of the Chair, clearly, under the limitations of the general provision on page 36, this amendment, being a general legislative provision with reference to demobilization and

---

[10] The decision whether to permit another Member to put the question on an appeal is within the discretion of the Chairman. 8 Cannon's Precedents § 3101.

having the effect of substantive law, and not being restrictive is not germane. The Chair therefore sustains the point of order.

Mr. Rankin: Mr. Chairman, with all the deference in the world for the distinguished Chairman, whom we all love, I respectfully appeal from the ruling of the Chair. . . .

The Chairman: The question at issue is, Shall the decision of the Chair stand as the judgment of the Committee of the Whole?

Mr. Rankin: Mr. Chairman, I ask for recognition on my appeal if it is debatable.

The Chairman: The gentleman from Mississippi is recognized for 5 minutes on the appeal.

Mr. Rankin: Mr. Chairman, I merely wish to say, with all deference to the Chairman who labored considerably with this proposition that I think the amendment is clearly germane. I have taken this appeal because it is our chance to get these boys out of the service. It is no reflection on the Chair to overrule the decision of the Chair. I trust the decision of the Chair will be overruled. If it is overruled, that will give us a chance to vote on my amendment, which you can see the Members are anxious to support. . . .

Mr. O'Neal: I beg to differ with the statement of the gentleman from Mississippi. The Chair has made a decision and ruled on a point of order. This appeal is not on the merits of the amendment. The gentleman from Mississippi has appealed to you that the Chair has decided wrongly. Your decision, just as though you were a judge on the bench, is to decide whether or not the Chair was in error when he ruled that the point of order was well taken.

The Chairman (Mr. Cooper): The question is: Shall the decision of the Chair stand as the judgment of the Committee of the Whole?

The question was taken; and the Chair announced that the "ayes" had it.

So the decision of the Chair stands as the judgment of the Committee of the Whole.

Appeal as Subject to Motion to Table

§ 9.8 The motion to lay on the table an appeal from a decision of the Chair is not in order in the Committee of the Whole.

On Oct. 19, 1945,[11] after ruling that a proposed amendment was not germane to H.R. 4407, reducing appropriations, Chairman Fritz G. Lanham, of Texas, stated that a motion to table a decision of the Chair is not in order in the Committee of the Whole.

> Mr. [John E.] Rankin [of Mississippi]: Mr. Chairman, with all the deference in the world for the distinguished Chairman, whom we all love, I respectfully appeal from the ruling of the Chair.
>
> Mr. [Emmet] O'Neal [of Kentucky]: Mr. Chairman, I move to lay the appeal on the table.

---

[11] 91 Cong. Rec. 9846, 9868–70, 79th Cong. 1st Sess.

Mr. RANKIN: Mr. Chairman, the appeal cannot be laid on the table. The Committee has a right to vote on it.

THE CHAIRMAN: The motion to lay on the table is not in order in the Committee.(12)

C. MOTION TO RECOMMEND STRIKING ENACTING CLAUSE

§ 10. Generally

Although the Committee of the Whole does not have authority to consider a simple motion to strike the enacting clause of a bill,(13) it may agree to a motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.(14) Agreement by the House to the recommendation is considered equivalent to rejection of the bill.(15)

If the House rejects a recommendation of the Committee of the Whole to strike the enacting clause, it automatically resolves itself into the Committee for further consideration of the bill(16) which, by operation of the rule, is returned to the Committee without further House action. The bill goes back to the Committee of the Whole as unfinished business and is subject to amendment. Before the question of concurrence by the House is raised, a motion to refer the bill to any committee with or without instructions is in order, the Member offering that motion to refer need not qualify as being opposed to the bill;(17) when the bill is again reported to the House, it is referred

---

12. See also 81 CONG. REC. 7698–7700, 75th Cong. 1st Sess., July 27, 1937, for another illustration of this principle.

13. See § 10.1, infra. An older line of precedents took a different view. See, for example, 5 Hinds' Precedents § 5332, stating that the motion to strike out the enacting clause applied in the Committee of the Whole. The Chair sometimes took the view that the motion to strike the enacting clause was in the nature of an amendment. (See 8 Cannon's Precedents § 2618.) Since the motion can be dispositive of a bill, however, present practice is to allow it in the House and not in the Committee of the Whole.

14. § 10.2, infra.

See 5 Hinds' Precedents §§ 5326–5346 and 8 Cannon's Precedents §§ 2618–2638 for earlier precedents relating to these motions.

15. See § 10.6, infra.

16. § 10.9, infra.

17. See 8 Cannon's Precedents § 2629.

to the Committee of the Whole without debate.(18)

The motion that the Committee rise and report with the recommendation that the enacting clause be stricken is not in order during general debate on a measure in the Committee; it is in order after the first section is read during the reading for amendment.(19)

A point of order against the motion that the Committee rise and report with the recommendation that the enacting clause be stricken out should be made before debate begins(20) on the motion.

Form of Motion

§ 10.1 The simple motion to strike out the enacting clause is not in order in the Committee of the Whole, not being in proper form.

On May 18, 1960,(21) during consideration of H.R. 5, the Foreign Investment Incentive Act of 1960, Chairman William H. Natcher, of Kentucky, ruled out of order a motion that the Committee of the Whole rise and report the bill back to the House with its enacting clause stricken out. However, a motion that the Committee rise and report the bill to the House with the recommendation that the enacting clause be stricken out was entertained and adopted.

Mr. [Thomas M.] Pelly [of Washington]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Pelly moves that the Committee do now rise and report the bill back to the House with its enacting clause stricken out.

The Chairman: The Chair desires to inform the gentleman that his motion is not in order.

Mr. [H. R.] Gross [of Iowa]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Gross moves that the Committee now rise and report the bill to the House with the recommendation that the enacting clause be stricken out. . . .

The question is on the preferential motion offered by the gentleman from Iowa [Mr. Gross].

The question was taken; and on a division (demanded by Mr. Gross) there were—ayes 101, noes 93.

Mr. [Hale] Boggs [of Louisiana]: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Boggs and Mr. Gross.

The Committee again divided, and the tellers reported there were—ayes 107, noes 101.

So the motion was agreed to.

---

18. Rule XXIII clause 7, *House Rules and Manual* § 875 (1979).
19. See § 11.2, infra.
20. 5 Hinds' Precedents § 6902; 8 Cannon's Precedents § 3442.
21. 106 Cong. Rec. 10577-79, 86th Cong. 2d Sess.

§ 10.2 The motion to strike out the enacting clause of a bill in the Committee of the Whole is not in proper form. The motion should provide that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

On June 21, 1944,(22) during consideration of H.R. 4219, providing for appointment of female pilots and aviation cadets in the air force, Chairman Robert Ramspeck, of Georgia, ruled out of order a motion to strike out the enacting clause because of improper form and indicated the proper form.

MR. [EDOUARD V. M.] IZAC [of California]: I offer a preferential motion.

THE CHAIRMAN: The Clerk will report the motion of the gentleman from California.

The Clerk read as follows:

Mr. Izac moves to strike out the enacting clause. . . .

MR. [ANDREW J.] MAY [of Kentucky]: I reserve the point of order against the motion on the ground that it is not in proper form and does not comply with the rules of the House. The motion should read: I move that the Committee do now rise and report the bill back with instructions that the enacting clause be stricken out.

THE CHAIRMAN: The gentleman from Kentucky is correct.

The Chair sustains the point of order.

§ 10.3 Where the form of a motion to strike out the enacting clause of a bill in the Committee of the Whole is deficient, the Chair may rule it out of order.

On Nov. 4, 1971,(23) during consideration of H.R. 7248, to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education, Chairman pro tempore Edward P. Boland, of Massachusetts, refused to entertain as privileged a motion that the Committee strike the enacting clause and report the bill back to the House because the motion was not in writing and not in proper form.

THE CHAIRMAN PRO TEMPORE: The Chair recognizes the gentleman from New York (Mr. Wolff).

MR. [LESTER L.] WOLFF: Mr. Chairman, I take my time to send to the desk a privileged motion.

---

22. 90 CONG. REC. 6414, 6415, 78th Cong. 2d Sess. See also, for example, 97 CONG. REC. 7498, 82d Cong. 1st Sess., June 29, 1951; and 95 CONG. REC. 2962–65, 81st Cong. 1st Sess., Mar. 22, 1949, for other illustrations of this principle.

23. 117 CONG. REC. 39321, 92d Cong. 1st Sess.

The Clerk read as follows:

> Mr. Wolff of New York moves to strike all after the enacting clause.

The Chairman Pro Tempore: The Chair will state that the motion in the form offered is not in order in the Committee of the Whole and it cannot be entertained.

Mr. Wolff: Mr. Chairman, I move that the Committee strike the enacting clause and report the bill back to the House.

The Chairman Pro Tempore: Does the gentleman have his motion in writing at the Clerk's desk?

Mr. Wolff: I do not.

The Chairman Pro Tempore: The Chair will state that the motion is not in order.

Privileged Nature

§ 10.4 A motion that the Committee of the Whole rise and report back to the House with the recommendation that the enacting clause be stricken is of high privilege.

On July 9, 1965,(1) during consideration of H.R. 6400, the Voting Rights Act of 1965, a motion that the Committee of the Whole rise and report back to the House with the recommendation that the enacting clause of the bill be stricken was offered as a preferential motion.

Mr. [Albert W.] Watson [of South Carolina]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Preferential motion offered by Mr. Watson:
>
> "Mr. Watson, of South Carolina, moves that the Committee now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.". . .

Mr. [William T.] Cahill [of New Jersey]: Mr. Chairman, I rise in opposition to the preferential motion.

Mr. Chairman, I am very happy in a way that the gentleman from South Carolina spoke, because by his speech he pointed out I think more dramatically than anything I could say or anything anyone else could say the courage that was demonstrated by another gentleman from the South today, the gentleman from Louisiana [Mr. Boggs]. . . .

The Chairman:(2) The question is on the preferential motion offered by the gentleman from South Carolina.

Parliamentarian's Note: The 10 minutes used for debate on the preferential motion was not taken from the time remaining for debate on the bill under a limitation previously agreed upon. The limitation was contained in a unanimous-consent request to which the Com-

---

1. 111 Cong. Rec. 16227, 16228, 89th Cong. 1st Sess. See also 115 Cong. Rec. 30099, 91st Cong. 1st Sess., Oct. 15, 1969, for another illustration of this principle during consideration of H.R. 14127, the Coinage Act Amendments of 1969.

2. Richard Bolling (Mo.).

mittee had previously agreed. The request provided:[3]

> Mr. [Emanuel] Celler [of New York]: Mr. Chairman, I ask unanimous consent that all debate on the so-called McCulloch substitute and all amendments thereto be limited to 2 hours, and that such time be equally divided and controlled by myself and the gentleman from Ohio [Mr. McCulloch].
>
> The Chairman: Is there objection to the request of the gentleman from New York?
>
> There was no objection.

Divisibility

§ 10.5 A motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken out is not divisible.

On Dec. 15, 1937,[4] during consideration in Committee of S. 2475, the wages and hours bill, under Chairman John W. McCormack, of Massachusetts, a question arose as to whether a motion relating to the enacting clause was divisible.

> The Chairman: The motion of the gentleman from Oklahoma is directed to the enacting clause of the Senate bill.
>
> Mr. [Clarence E.] Hancock of New York: Mr. Chairman, a parliamentary inquiry.
>
> The Chairman: The gentleman will state it.
>
> Mr. Hancock of New York: Is that motion divisible?
>
> The Chairman: The Chair, in answer to the gentleman's inquiry, will say the motion is not divisible.

House Action on Committee Recommendation

§ 10.6 Where a bill is reported from the Committee of the Whole with the recommendation that the enacting clause be stricken out, the question before the House is on the recommendation of the Committee of the Whole; if that recommendation is agreed to, it is equivalent to a rejection of the bill.

On Mar. 1, 1950,[5] the Committee of the Whole agreed to a motion to report H.R. 5963, authorizing contributions to the Cooperative for American Remittances to Europe, Inc., back to the House with the recommendation that the enacting clause be stricken out. The proceedings were as follows:

---

[3] 111 Cong. Rec. 16038, 89th Cong. 1st Sess., July 8, 1965.

For another instance in which the time for debate on a motion to rise and report with the recommendation that the enacting clause be stricken was not taken from the time fixed for debate on an amendment previously offered (where the time was not fixed by the clock), see 99 Cong. Rec. 4125–28, 83d Cong. 1st Sess., Apr. 28, 1953. See also Ch. 29 § 79, infra.

[4] 82 Cong. Rec. 1600, 75th Cong. 2d Sess.

[5] 96 Cong. Rec. 2590, 2591, 81st Cong. 2d Sess.

THE CHAIRMAN:[6] The question is on the amendment offered by the gentleman from Nebraska.

The question was taken; and on a division (demanded by Mr. Stefan) there were—ayes 92, noes 27.

MR. [JOHN] KEE [of West Virginia]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Kee and Mr. Stefan.

The Committee again divided; and the tellers reported that there were—ayes 127, noes 46.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5953) to authorize contributions to Cooperative for American Remittances to Europe, Inc., had directed him to report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE SPEAKER:[7] The question is on the motion to strike out the enacting clause.

MR. KEE: Mr. Speaker, on that I demand the yeas and nays.

MR. [JACOB K.] JAVITS [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. JAVITS: So that we may know what we are voting, is it a fact that a vote "yea" means that the enacting clause will be stricken, and a vote "nay" means that it will not be stricken and the bill will pass?

THE SPEAKER: The question now is on the motion to strike out the enactment clause.

The yeas and nays were ordered.

The question was taken; and there were—yeas 265, nays 102, not voting 65. . . .

So the motion was agreed to.

Parliamentarian's Note: It should be noted that, under the rules, the motion to strike the enacting clause, if carried, is equivalent to the rejection of the bill. Rule XXIII clause 7, *House Rules and Manual* § 875 (1979).

Resolving Clauses in Resolution of Disapproval and Applicability to Simple Resolutions Generally

§ 10.7 A motion that the Committee of the Whole rise and report a resolution to disapprove a reorganization plan under the Reorganization Act of 1949 back to the House with the recommendation that the resolving clause be stricken out was held not in order

---

[6] Charles M. Price (Ill.).

[7] Sam Rayburn (Tex.).

because that resolution is not amendable.

On June 27, 1953,(8) during consideration of House Resolution 295, disapproving Reorganization Plan No. 6, Chairman Leslie C. Arends of Illinois, held that the motion that the Committee of the Whole rise and report the resolution back to the House with the recommendation that the resolving clause be stricken out was not in order.

> MR. [W. STERLING] COLE of New York: Mr. Chairman, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > MR. Cole of New York moves that the Committee do now rise with the recommendation that the enacting clause be stricken.
>
> MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, I make the point of order that the motion is not in order.
>
> THE CHAIRMAN: The Chair is compelled to agree with the gentleman from Michigan. The resolution is not amendable and, therefore, the preferential motion is not in order.(9)

Chairman's Vote

§ 10.8 The Chairman of a Committee of the Whole cast his vote to make a tie and thus defeated a motion to rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

On Aug. 1, 1957,(10) during consideration of H.R. 6763, to amend the Act of Aug. 30, 1954, entitled "an Act to authorize and direct the construction of bridges over the Potomac River," Chairman Richard Bolling, of Missouri, cast his negative vote to make a tie and thereby defeat a motion to rise and report a bill back to the House with the recommendation that the enacting clause be stricken out.

> MR. [JOHN] TABER [of New York]: Mr. Chairman, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Taber moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. . . .

---

8. 99 CONG. REC. 7482, 83d Cong. 1st Sess.

9. 5 USC § 912(b) provides that an amendment to a resolution of disapproval is not in order and the preferential motion is in order only during the stage of amendment.

Parliamentarian's Note: A preferential motion under the provisions of Rule XXIII clause 7, *House Rules and Manual* § 875 (1979), is applicable to a simple resolution being considered under a special rule in the Committee of the Whole under the five-minute rule. See 120 CONG. REC. 34170, 34171, 93d Cong. 2d Sess., Oct. 7, 1974.

10. 103 CONG. REC. 13377, 13378, 85th Cong. 1st Sess.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York [Mr. Taber].

The question was taken; and the Chair being in doubt, the Committee divided, and there were—ayes 54, noes 49.

MR. [JAMES C.] DAVIS of Georgia: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Taber and Mr. Davis of Georgia.

The Committee again divided.

THE CHAIRMAN: On this vote by tellers, the ayes are 63; noes, 62. The Chair votes "no".

So the motion was rejected.

Effect of House Rejection of Recommendation to Strike Enacting Clause

§ 10.9 When a recommendation of a Committee of the Whole that the enacting clause be stricken is rejected by the House, the House, without motion, resolves itself into the Committee of the Whole for further consideration of the bill.

On Aug. 21, 1958,[11] the Committee of the Whole resumed its sitting after the House rejected a Committee recommendation to strike the enacting clause of S. 4036, to stabilize production of copper, lead, zinc, acid-grade fluorspar, and tungsten. The proceedings were as follows:

> MR. [WAYNE L.] HAYS of Ohio: Mr. Chairman, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Hays of Ohio moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken. . . .
>
> THE CHAIRMAN:[12] The time of the gentleman from Oklahoma has expired. All time on the preferential motion has expired.
>
> The question is on the motion to strike out the enacting clause.
>
> The question was taken; and on a division (demanded by Mr. Hays of Ohio) there were—ayes 77, noes 76.
>
> MR. [STEWART L.] UDALL [of Arizona]: Mr. Chairman, I demand tellers.
>
> Tellers were ordered, and the Chairman appointed as tellers Mr. Rogers of Texas and Mr. Hays of Ohio.
>
> The Committee again divided, and the tellers reported that there were—ayes 108, noes 98.
>
> So the motion was agreed to.
>
> Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Evins, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (S. 4036) to stabilize production of copper, lead, zinc, acid-

---

[11] 104 CONG. REC. 18946–48, 85th Cong. 2d Sess. See also 111 CONG. REC. 25424–26, 89th Cong. 1st Sess., Sept. 29, 1965; and 94 CONG. REC. 6423, 80th Cong. 2d Sess., May 25, 1948, for other examples of this principle.

[12] Joseph L. Evins (Tenn.).

grade fluorspar, and tungsten from domestic mines, had directed him to report the bill back to the House with the recommendation that the enacting clause be stricken out.

The Speaker:[13] The question is on the recommendation of the Committee of the Whole House on the State of the Union that the enacting clause be stricken out.

Mr. [John J.] Rhodes of Arizona: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 171, nays 174, not voting 84. . . .

So the motion was rejected. . . .

The result of the vote was announced as above recorded.

The Committee resumed its sitting.

Motion to Rise (Strike the Enacting Clause) and Recommit Bill to Committee

§ 10.10 A motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken and the bill be recommitted to a committee was held not to be in order in the Committee of the Whole.

On Apr. 3, 1957,[14] during consideration of H.R. 6287, making appropriations for the Departments of Labor and Health, Education, and Welfare, Chairman Aime J. Forand, of Rhode Island, held out of order a motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken and that the bill be recommitted to committee with instructions.

Mr. [Clare E.] Hoffman [of Michigan]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Hoffman moves that the Committee do now rise, report the bill back to the House with the recommendation that the enacting clause be stricken, and that the bill be recommitted to the Committee on Appropriations with instructions that it be reported back to the House within 5 days with amendments which will indicate the places and amounts in the budget where the committee believes, in view of the statements made in the Committee of the Whole House on the State of the Union, that substantial reductions may best be made and will meet the views of the House with the least curtailment of efficient administration by the Departments affected.

Mr. [John E.] Fogarty [of Rhode Island]: Mr. Chairman, I reserve a point of order on the motion.

The Chairman: The gentleman from Michigan is recognized.

Mr. Hoffman: In the interest of saving time, I am perfectly willing that the point of order should be ruled on now. Why wait 5 minutes or 10 minutes if it is out of order?

---

[13] Sam Rayburn (Tex.).

[14] 103 Cong. Rec. 5013, 85th Cong. 1st Sess.

THE CHAIRMAN: Does the gentleman from Rhode Island care to be heard on the point of order? The Chair is ready to rule.

MR. FOGARTY: Mr. Chairman, as I remember the reading of the motion, there is matter of wording contained therein that is not permissible under the rules governing procedure in Committee of the Whole, but would be allowed under the rules of procedure in the House.

THE CHAIRMAN: Does the gentleman from Michigan desire to be heard?

MR. HOFFMAN: Yes, Mr. Chairman. I want to point out that there is a precedent for the motion and the rules cite a precedent where that motion has been held to be proper in the Committee.

THE CHAIRMAN: The Chair is not familiar with that precedent, but the rules of the House provide that certain language contained in the motion made by the gentleman from Michigan could be entertained in Committee of the Whole, but the balance of the motion would only be appropriate in the House. For that reason, the Chair sustains the point of order.(15)

§ 10.11 A motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that it be recommitted to the committee from which reported is not in order if that motion is not permitted under the resolution setting out the conditions under which the bill is to be considered.

On Aug. 10, 1950,(16) during consideration of H.R. 9176, the Defense Production Act of 1950, Chairman Howard W. Smith, of Virginia, indicated that a motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that it be recommitted to the reporting committee

---

15. Immediately after the ruling of the Chairman, Mr. Hoffman quoted from 8 Cannon's Precedents § 2329, in which Chairman Frank D. Currier (N.H.) stated: "The gentleman may move that the Committee rise and report this bill to the House with the recommendation that it be recommitted to the Committee on Interstate and Foreign Commerce. A motion to recommit is in order in the House. It is in order in Committee of the Whole House to move that when the Committee rises it recommends to the House a recommitment of the bill."

Note: A motion that the Committee of the Whole rise and report a bill to the House with the recommendation that the bill be recommitted to the committee from which it was reported is in order only when the bill is being considered under the general rules of the House and then only at the completion of the reading of the bill for amendment (4 Hinds' Precedents §§ 4761, 4762); it is not in order when the Committee of the Whole considers the bill under a special rule requiring reading for amendment under the five-minute rule. See 96 CONG. REC. 12219, 81st Cong. 2d Sess., Aug. 10, 1950. See also Ch. 23, infra.

16. 96 CONG. REC. 12219, 81st Cong. 2d Sess.

was not in order because such motion was not authorized by the special rule setting out the conditions under which the bill was being considered.

Mr. [John E.] Rankin [of Mississippi]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Rankin moves that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further hearings and study.

Mr. [Wright] Patman [of Texas]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Patman: Mr. Chairman, I make the point of order that this being a straight motion to recommit, without instructions, it is not permissible under the rule under which we are considering the bill in Committee.

The Chairman: The Chair is ready to rule.

That motion is not in order in Committee of the Whole, and the Chair sustains the point of order.

Mr. Rankin: Mr. Chairman, it is in order to make a motion that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further study and hearing.

The Chairman: In the consideration of this bill the Committee of the Whole is operating under a special rule which lays down the conditions under which the bill is to be considered. The motion of the gentleman from Mississippi is not in order at this time.

The special rule, House Resolution 740,(17) did not authorize the Committee of the Whole to rise and report the bill back to the House with recommendation that the bill be recommitted to the standing committee. One motion to recommit would have been in order *in the House* under the special rule, the terms of which are set out below:

> *Resolved*, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9176) to establish a system of priorities and allocations for materials and facilities, authorize the requisitioning thereof, provide financial assistance for expansion of productive capacity and supply, strengthen controls over credit, regulate speculation on commodity exchanges, and by these measures facilitate the production of goods and services necessary for the national security, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 1 day, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under

---

17. 96 Cong. Rec. 11506, 81st Cong. 2d Sess., Aug. 1, 1950.

> the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute committee amendment recommended by the Committee on Banking and Currency now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of such consideration the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

§ 10.12 A motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken out and the bill returned to a committee with instructions to remove a provision was held not to be in proper form.

On May 5, 1949,[18] during consideration of H.R. 2989, to incorporate the Virgin Islands Corporation, Chairman Wilbur D. Mills, of Arkansas, held that a motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken out and the bill be returned to the legislative committee with instructions to remove a particular provision was not in proper form for a preferential motion.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Rich moves that the Committee now rise and report the bill back to the House with the recommendation that the enacting clause be stricken and the bill be returned to the Committee on Public Lands with instructions to remove the provision permitting the Government to manufacture rum.

THE CHAIRMAN: The Chair will state that the motion as presented by the gentleman from Pennsylvania is not in proper form for a preferential motion.

The Clerk will read the bill for amendment.

Yielding Time During Debate

§ 10.13 A Member offering a motion in the Committee of the Whole to strike out the enacting clause of a bill may while holding the floor yield part (but not all) of his five minutes of debate to another to discuss the motion.

On Sept. 27, 1945,[19] during consideration of H.R. 2948, to amend the Civil Service Retirement Act to exempt certain annuity payments from taxation, Chairman Aime J. Forand, of Rhode Island, referred to the rule under which a Member offering a motion to strike out the enacting clause may yield time to another.

---

[18] 95 CONG. REC. 5705, 81st Cong. 1st Sess.

[19] 91 CONG. REC. 9095, 79th Cong. 1st Sess.

MR. [ANDREW J.] MAY [of Kentucky]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. May moves that the Committee do now rise and report the bill, H.R. 2948, back forthwith to the House with the recommendation that the enacting clause be stricken out.

MR. MAY: Mr. Chairman, I yield my 5 minutes to the gentleman from North Carolina, if I may.

MR. [ROBERT] RAMSPECK [of Georgia]: The gentleman cannot do that, Mr. Chairman.

THE CHAIRMAN: He can yield time while he is holding the floor.

MR. MAY: I yield part of my time, then, to the gentleman from North Carolina.

MR. [ROBERT L.] DOUGHTON of North Carolina: Mr. Chairman, for the first time in a number of years we are now preparing to bring in a tax-relief bill.

Striking Enacting Clause of Senate Bill

§ 10.14 The Speaker has directed the Clerk to notify the Senate of agreement by the House to a recommendation of the Committee of the Whole that the enacting clause of a Senate-passed bill be stricken out.

On Oct. 4, 1972,(20) during consideration of S. 1316, to amend the federal laws governing meat and poultry inspection, the House agreed to a recommendation of the Committee of the Whole relating to the enacting clause of the bill.

MR. [HUGH L.] CAREY of New York: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Carey of New York moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. . . .

THE CHAIRMAN:(21) The question is on the preferential motion offered by the gentleman from New York (Mr. Carey).

The question was taken; and on a division (demanded by Mr. Carey of New York) there were—ayes 104, noes 97.

MR. [WILEY] MAYNE [of Iowa]: Mr. Chairman, I demand tellers.

Tellers were ordered.

MR. MAYNE: Mr. Chairman I demand tellers with clerks.

---

20. 118 CONG. REC. 33785, 33786, 92d Cong. 2d Sess.

See also 92 CONG. REC. 7211, 79th Cong. 2d Sess., June 20, 1946, for another instance in which the House struck the enacting clause of a Senate bill.

21. James W. Symington (Mo.).

Tellers with clerks were ordered. . . .

The Committee divided, and the tellers reported that there were—ayes 172, noes 170, not voting 89. . . .

So the preferential motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Symington, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (S. 1316) . . . had directed him to report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE SPEAKER:(22) The question is on the recommendation of the Committee of the Whole House on the State of the Union that the enacting clause be stricken out.

MR. MAYNE: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 173, nays 169, not voting 88. . . .

So the recommendation of the Committee of the Whole House on the State of the Union that the enacting clause be stricken out was agreed to. . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The Clerk will notify the Senate of the action of the House.

Withdrawal of Motion

§ 10.15 The motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken out was withdrawn by unanimous consent.

On May 3, 1949,(1) during consideration of H.R. 2032, the National Labor Relations Act of 1949, a motion to strike the enacting clause was withdrawn by unanimous consent.

MR. [EUGENE] WORLEY [of Texas]: Mr. Chairman, I offer a preferential motion.

THE CHAIRMAN:(2) The Clerk will report the motion of the gentleman from Texas.

The Clerk read as follows:

> Mr. Worley moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE CHAIRMAN: The gentleman from Texas is recognized for 5 minutes on his motion.

MR. WORLEY: . . . Mr. Chairman, I ask unanimous consent to withdraw my motion.

THE CHAIRMAN: Is there objection to the request of the gentleman from Texas?

There was no objection.

---

22. Carl Albert (Okla.).

1. 95 CONG. REC. 5521, 5522, 81st Cong. 1st Sess.
2. Jere Cooper (Tenn.).

§ 11. When in Order

The motion to strike out the enacting words of a bill has precedence over a motion to amend.[3] And it may be offered while an amendment is pending.[4]

Time to Offer Motion

§ 11.1 Because a motion to strike out the enacting clause of a bill is in order only during the stage of amendment, the Chair has indicated that the motion would not be in order after the adoption of an amendment in the nature of a substitute.

On Aug. 7, 1964,[5] during consideration of H.R. 11377, the Economic Opportunity Act of 1964, Chairman Albert Rains, of Alabama, made reference to the time during which the motion to strike out the enacting clause would be in order:

> MR. [CHARLES A.] HALLECK [of Indiana]: My inquiry, Mr. Chairman, is this: After the substitute is voted on and if it is adopted would it be in order for someone or anyone, any Member, to offer a motion to strike out the enacting clause?
>
> THE CHAIRMAN: The Chair replies that it would not be because the stage of amending the bill would have passed.

§ 11.2 A motion in the Committee of the Whole that the Committee rise and report a bill back to the House with the recommendation that the enacting clause be stricken out is not in order during debate on the measure but is properly offered when the bill is being read for amendment.

On July 5, 1939,[6] during general debate on H.R. 5031, regarding relief for sufferers from the earthquake in Chile, Chairman Orville Zimmerman, of Missouri, stated that a motion to strike the enacting clause was not in order.

> THE CHAIRMAN: The gentleman from New York has control of the time.
>
> MR. [ALBERT E.] CARTER [of California]: Mr. Chairman, a parliamentary inquiry.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. CARTER: Would a motion that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out be in order at this time, or must we wait until debate closes?

---

[3] Rule XXIII clause 7, *House Rules and Manual* § 875 (1979).

[4] See 5 Cannon's Precedents §§ 5329, 5330, and 8 Cannon's Precedents § 2624.

[5] 110 CONG. REC. 18608, 18609, 88th Cong. 2d Sess.

[6] 84 CONG. REC. 8624, 76th Cong. 1st Sess.

The Chairman: The Chair rules that the motion is not in order at this time.

Mr. [Hamilton] Fish [Jr., of New York]: Mr. Chairman, I yield 4 minutes to the gentleman from Nebraska [Mr. Stefan].

§ 11.3 A motion to strike out the enacting clause is a preferential motion and in order at any time recognition is secured to offer it during the reading of the bill for amendment by a Member who, if challenged, qualifies as being opposed to the bill, even though that may have the effect of extending the time for debate.

On May 26, 1945,(7) during consideration of H.R. 3240, regarding foreign trade agreements, Chairman Clifton A. Woodrum, of Virginia, overruled a point of order that a motion to strike the enacting clause should not be entertained because it had been offered merely to gain additional time for debate.

Mr. [Daniel A.] Reed of New York: Mr. Chairman, I offer a preferential motion.

The Chairman: The gentleman from New York offers a preferential motion which the Clerk will report.

The Clerk read as follows:

> Mr. Reed of New York moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. [Jere] Cooper [of Tennessee]: Mr. Chairman, I make a point of order against the motion.

The Chairman: The gentleman will state the point of order.

Mr. Cooper: Of course, this is a motion of the highest privilege, under the rules of the House, but I submit to the Chair that when it is offered obviously for the purpose of gaining a specific object—to extend debate after the time has been fixed and the debate closed—that such a motion should not be entertained.

The Chairman: The Chair will say to the gentleman that the effect of the motion may be to extend the time of debate, but the purpose of the motion is a vehicle by which the bill may be killed. If the gentleman from New York [Mr. Reed] is opposed to the bill, this is one way to do it.

Mr. Reed of New York: I am opposed to the bill, sir, as I have been consistently.

The Chairman: The Chair overrules the point of order.

Under Rule Permitting Only Committee Amendments

§ 11.4 Where a bill is being considered under a rule permitting only committee amendments and no amendments thereto, a motion that the Committee rise and report the bill back to the House with the

---

7. 91 Cong. Rec. 5149, 79th Cong. 1st Sess. See 86 Cong. Rec. 1883, 76th Cong. 3d Sess., Feb. 23, 1940, for another illustration of this principle.

recommendation that the enacting clause be stricken out is in order until the stage of amendment is passed.

On Jan. 30, 1957,(8) during consideration under a closed rule of House Joint Resolution 117, to authorize the President to cooperate with nations of the Middle East, Chairman Jere Cooper, of Tennessee, stated that a motion that the Committee of the Whole rise and report the resolution back to the House with the recommendation that its enacting clause be stricken was preferential and in order.

> MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I rise in support of the amendment and the resolution.
>
> THE CHAIRMAN: Under the rules adopted by the House all debate on the pending amendment is exhausted.
>
> The question is on the committee amendment.
>
> The committee amendment was agreed to. . . .
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I offer a preferential motion.
>
> The Clerk read as follows:
>
> Mr. Gross moves the Committee now rise and report the resolution to the House with the recommendation that the enacting clause be stricken.
>
> MR. [JOHN M.] VORYS [of Ohio]: Mr. Chairman, a point of order.
>
> THE CHAIRMAN: The gentleman will state his point of order.
>
> MR. VORYS: It is my understanding that under the rule this motion is not in order.
>
> MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, I want to be heard on that point of order, if I may.
>
> THE CHAIRMAN: The Chair is ready to rule.
>
> This is a preferential motion. It is not an amendment which is prohibited under the rule adopted by the House, but a preferential motion. It is in order. The point of order is overruled and the gentleman from Iowa [Mr. Gross] is recognized for 5 minutes in support of his preferential motion.

Following debate and rejection of the preferential motion, the Chairman put the question on the committee amendment. After the committee amendment was agreed to, the Chairman directed the Clerk to read the next committee amendment. The proceedings were as follows:

> THE CHAIRMAN: The question is on the preferential motion offered by the gentleman from Iowa.
>
> The motion was rejected.
>
> THE CHAIRMAN: The question is on the committee amendment.
>
> The committee amendment was agreed to.

---

8. 103 CONG. REC. 1307-09, 85th Cong. 1st Sess. See 106 CONG. REC. 10577-79, 86th Cong. 2d Sess., May 18, 1960, for another illustration of this principle.

The Chairman: The Clerk will report the next committee amendment as it appears in the printed copy of the resolution.

The Clerk read as follows: . . .

§ 11.5 A preferential motion that the Committee rise and report the bill to the House with the recommendation that the enacting clause be stricken is not in order where the stage of amendment is passed; and the stage of amendment is passed in Committee of the Whole where a bill is being considered under a rule permitting only committee amendments and where no committee amendments are offered at the conclusion of general debate.

On Apr. 16, 1970,[9] during consideration of H.R. 16311, the Family Assistance Act of 1970, Chairman John D. Dingell, of Michigan, ruled out of order a motion that the Committee of the Whole rise and report a bill to the House with the recommendation that the enacting clause be stricken. He did so on the ground that the stage of amendment had passed, no committee amendments having been offered at the conclusion of general debate. The bill was being considered under a closed rule permitting only committee amendments and no amendments thereto.

The Chairman: Under the rule, the bill is considered as having been read for amendment. No amendments are in order to the bill except amendments offered by direction of the Committee on Ways and Means.

Are there any committee amendments?

Mr. [Wilbur D.] Mills [of Arkansas]: Mr. Chairman, there are no committee amendments.

Mr. [Omar T.] Burleson of Texas: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state his parliamentary inquiry.

Mr. Burleson of Texas: Mr. Chairman, I have a preferential motion. Is it in order to offer a preferential motion at this time?

The Chairman: Will the gentleman advise the Chair what sort of preferential motion he has in mind?

Mr. Burleson of Texas: To strike the enacting clause.

The Chairman: The Chair will advise the gentleman from Texas that that motion is not in order unless amendments are in order, and are offered. There being no committee amendments, that motion will not be in order at this time.

Mr. Burleson of Texas: Mr. Chairman, may I inquire, if there are no committee amendments to be offered, if the bill is perfected?

The Chairman: The Chair will advise the gentleman from Texas that the chairman of the Committee on Ways and Means, the gentleman from Arkansas (Mr. Mills), has just advised the Chair that there are no committee amendments. That being so, the motion is not in order at this time.

---

[9] 116 Cong. Rec. 12092, 91st Cong. 2d Sess.

Under the rule, the Committee rises.

Effect of Adoption of Amendment in the Nature of a Substitute

§ 11.6 After the stage of amendment is passed, the motion that the Committee of the Whole rise and report the bill with the recommendation that the enacting clause be stricken is not in order; and the adoption of an amendment in the nature of a substitute may foreclose the opportunity to offer such a motion.

On Aug. 7, 1964,(10) during consideration of H.R. 11377, the Economic Opportunity Act of 1964, Chairman Albert Rains, of Alabama, stated that the motion that the Committee of the Whole rise and report a bill with the recommendation that the enacting clause be stricken would not be in order after the adoption of an amendment.

Mr. [Charles A.] Halleck [of Indiana]: Mr. Chairman, a further parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Halleck: As I remember the unanimous-consent request it was that debate on the pending amendment, which is the Landrum substitute, and all amendments and substitutes thereto, close at 6:30. I did not take it that that would foreclose the consideration of a motion to strike out the enacting clause after the amendment in the nature of a substitute had been disposed of.

The Chairman: The Chair will state that if the Landrum amendment is adopted it will foreclose the opportunity to offer a motion to strike out the enacting clause because the stage for amendment would then be passed.

§ 11.7 Where the Committee of the Whole adopts an amendment in the nature of a substitute for an entire bill it is not subject to further amendment; and a subsequent motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken is not then in order because the stage of amendment has passed.

On Apr. 1, 1949,(11) during consideration of H.R. 2023, regarding regulation of oleomargarine, Chairman William M. Whittington, of Mississippi, stated that a motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out is not in order

---

10. 110 Cong. Rec. 18608, 18609, 88th Cong. 2d Sess.

11. 95 Cong. Rec. 3727, 81st Cong. 1st Sess.

after the adoption of a substitute for an entire bill.

The Chairman: The question is on the amendment to the original bill, in the nature of a substitute, offered by the gentleman from Texas [Mr. Poage].

The question was taken; and the Chair being in doubt, the Committee divided, and there were—ayes 152, noes 140.

Mr. August H. Andresen [of Minnesota]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Poage and Mr. August H. Andresen.

The Committee again divided; and the tellers reported that there were—ayes 162, noes 141.

So the substitute amendment was agreed to.

Mr. August H. Andresen: Mr. Chairman, I offer a preferential motion.

The Chairman: Will the gentleman state what he proposes to offer as a preferential motion?

Mr. August H. Andresen: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The Chairman: The gentleman is out of order. That is not a preferential motion at this time.

After Ordering of Previous Question

§ 11.8 A motion in the House to strike out the enacting clause of a bill is not in order after the previous question has been ordered on the bill to final passage.

On Apr. 16, 1970,(12) during consideration of H.R. 16311, the Family Assistance Act of 1970, Speaker John W. McCormack, of Massachusetts, stated that a motion to strike out the enacting clause was not in order where the previous question had been ordered on the bill to final passage. This bill was considered under a closed rule which permitted only committee amendments and no amendments thereto.

The Speaker: Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The Speaker: The question is on the passage of the bill.

Mr. [Omar T.] Burleson of Texas: Mr. Speaker a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Burleson of Texas: Mr. Speaker I have a preferential motion which was not permitted to be made in the Committee of the Whole. The preferential motion is to strike the enacting clause. Is it in order in the House at this time?

The Speaker: Due to the fact that the previous question has been ordered

---

12. 116 Cong. Rec. 12092, 91st Cong. 2d Sess.

on the bill to final passage, the motion is not in order at this time.

After Defeat of Motion to Rise and Recommend Passage

§ 11.9 After defeat of a motion that the Committee of the Whole rise and report a bill to the House with the recommendation that it pass, a motion that the Committee rise and report the bill with the recommendation that the enacting clause be stricken out is in order.

On May 12, 1941,(13) during consideration of H.R. 3490, fixing the amount of annual payment by the United States toward defraying expenses of the District of Columbia government, Chairman William M. Whittington, of Mississippi, stated that it would be in order to move that the Committee of the Whole rise and report the bill with the recommendation that the enacting clause be stricken out after defeat of a motion that the Committee rise and report the bill favorably.

> MR. [JENNINGS] RANDOLPH [of West Virginia]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 3490) to fix the amount of the annual payment by the United States toward defraying the expenses of the government of the District of Columbia; and pending that, I ask unanimous consent that debate be limited to 2 hours.

After completion of general debate and reading of the bill for amendment under the five-minute rule, the manager of the bill, Mr. Randolph, moved as follows:

> Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment with the recommendation that the amendment be agreed to and that the bill as amended do pass. . . .
>
> MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, a parliamentary inquiry.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. TARVER: If this motion to report the bill favorably does not carry, it would then be in order to offer a motion to report the bill with the recommendation that the enacting clause be stricken out.
>
> THE CHAIRMAN: The bill would still be in the Committee, and such a motion would be in order.

Effect of Pendency of Motion to Limit Debate

§ 11.10 A preferential motion under Rule XXIII clause 7 that the Committee of the Whole rise with the recommendation that the resolv-

---

13. 87 CONG. REC. 3917, 3938, 3939, 77th Cong. 1st Sess.

ing clause be stricken out is applicable to a simple resolution and may be offered while a motion to limit debate is pending.

On Oct. 7, 1974,[14] during consideration of a resolution (H. Res. 988) to reform the structure, jurisdiction, and procedures of House committees, the following proceedings took place:

> Mr. [Richard] Bolling [of Missouri]: Mr. Chairman, I move that all debate on the amendment in the nature of a substitute offered by the gentlewoman from Washington (Mrs. Hansen), and all amendments thereto, conclude in 5 hours.
>
> The Chairman [William H. Natcher, of Kentucky]: The question is on the motion.
>
> The question was taken; and the Chairman announced that the noes appeared to have it.
>
> Mr. Bolling: Mr. Chairman, I demand a recorded vote.

A series of parliamentary inquiries ensued. Then a preferential motion was made, as follows:

> Mr. [David T.] Martin of Nebraska: Mr. Chairman, I offer a preferential motion.
>
> The Clerk read as follows:
>
> Mr. Martin of Nebraska moves that the Committee rise and report the resolution H. Res. 988 to the House with the recommendation that the resolving clause be stricken out.
>
> The Chairman: The Chair would like to ask the gentleman from Nebraska, is the gentleman opposed to this resolution?
>
> Mr. Martin of Nebraska: I am, Mr. Chairman.
>
> The Chairman: The gentleman qualifies to make the motion.
>
> The gentleman from Nebraska is recognized for 5 minutes in support of his motion.

§ 11.11 The motion that the Committee of the Whole rise and report a bill to the House with the recommendation that the enacting clause be stricken out (Rule XXIII clause 7)[15] takes precedence over a motion to limit debate under Rule XXIII clause 6.[16]

On Dec. 14, 1973,[17] during consideration of H.R. 11450, the Energy Emergency Act, Chairman Richard Bolling, of Missouri, indicated that a motion that the Committee of the Whole rise and report the bill to the House with the recommendation that the enacting clause be stricken out took precedence over a motion to limit debate.

> Mr. [Samuel L.] Devine [of Ohio]:

---

[14] 120 Cong. Rec. 34170, 34171, 93d Cong. 2d Sess.

[15] *House Rules and Manual* § 875 (1979).

[16] *Id.* at § 874.

[17] 119 Cong. Rec. 41711–14, 93d Cong. 1st Sess.

Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state his parliamentary inquiry.

Mr. Devine: Mr. Chairman, my parliamentary inquiry is this: Is a motion now in order to say that the House will vote on the bill and all amendments thereto by a time certain?

The Chairman: The Chair will state that a motion to limit debate on the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers) and all amendments thereto, to a time certain, would be in order.

Mr. Devine: Mr. Chairman, I therefore will make that motion.

Mr. Chairman, I move that all debate on the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers) and all amendments thereto, close at 5:30 p.m. today. . . .

Mr. [H. R.] Gross [of Iowa]: Mr. Chairman, my parliamentary inquiry is this: Must that motion be in writing?

The Chairman: The Chair will state that the motion must be in writing if the gentleman insists upon it.

Mr. Gross: Mr. Chairman, I do so insist.

Mr. [Phillip M.] Landrum [of Georgia]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Landrum moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The Chairman: The gentleman from Georgia (Mr. Landrum) is recognized for 5 minutes in support of his preferential motion. . . .

The question is on the preferential motion offered by the gentleman from Georgia (Mr. Landrum).

The preferential motion was rejected.

Mr. Devine: Mr. Chairman, I have a parliamentary inquiry.

The Chairman: The gentleman from Ohio will state it.

Mr. Devine: At the time the gentleman from Georgia made his preferential motion, I had already made a motion before the House, and it was requested that that be put in writing. That was done, and it is currently at the Clerk's desk. I wonder what the status of that motion is that was pending at the time the preferential motion was made.

The Chairman: The preferential motion takes precedence. The preferential motion was rejected.

Mr. Devine: Mr. Chairman, I offer a motion.

The Clerk read as follows:

> Mr. Devine moves that all debate on the amendment in the nature of a substitute, H.R. 11882, and all amendments thereto be concluded by 6:30 p.m.

Parliamentarian's Note: On Oct. 7, 1974 (see § 11.10, supra), the Chair entertained as preferential a motion that the Committee rise with the recommendation that the resolving clause of a simple resolution be stricken out while there was pending a motion to limit debate. The motion is more preferential since, if adopted, it is a final disposition of the bill in Committee.

Duration of Debate

§ 11.12 A motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken is debatable for 10 minutes.

On Oct. 17, 1945,[18] during consideration of H.R. 3615, the airport bill, Chairman Graham A. Barden, of North Carolina, stated the time for debate on a motion to strike out the enacting clause of the bill:

> MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Hoffman moves that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.
>
> MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, a parliamentary inquiry.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. MCCORMACK: My understanding is that on the motion offered by the gentleman from Michigan there may be 10 minutes of debate, 5 minutes for and 5 minutes against, and that if the motion is defeated the 10 minutes of debate on the amendment still remain to be used. Is that correct?
>
> THE CHAIRMAN: The gentleman is correct.

Precedence of Motion to Rise

§ 11.13 A motion that the Committee of the Whole do now rise takes precedence over a pending motion to rise and report with the recommendation that the enacting clause be stricken out.

On May 24, 1967,[19] during consideration of H.R. 7819, the Elementary and Secondary Education Act Amendments of 1967, Chairman Charles M. Price, of Illinois, stated that the motion that the Committee of the Whole rise takes precedence over a pending motion to rise and report with the recommendation that the enacting clause be stricken out.

> MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Hays moves that the Committee do now rise and report the bill back to the House with the

---

[18] 91 CONG. REC. 9751, 79th Cong. 1st Sess. See also 89 CONG. REC. 654, 78th Cong. 1st Sess., Feb. 5, 1943; and 79 CONG. REC. 13013, 74th Cong. 1st Sess., Aug. 13, 1935. See Rule XXIII clause 7 and comment thereto, *House Rules and Manual* §§ 875, 876 (1979).

[19] 113 CONG. REC. 13876, 13877, 90th Cong. 1st Sess. See 82 CONG. REC. 1600, 75th Cong. 2d Sess., Dec. 15, 1937, for another illustration of this principle.

recommendation that the enacting clause be stricken out. . . .

The Chairman: The question is on the preferential motion offered by the gentleman from Ohio [Mr. Hays].

Mr. [Carl D.] Perkins [of Kentucky]: Mr. Chairman, I move that the Committee do now rise.

The Chairman: The question is on the motion offered by the gentleman from Kentucky [Mr. Perkins].

Mr. [Paul C.] Jones of Missouri: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state his parilamentary inquiry.

Mr. Jones of Missouri: Does not a preferential motion require a vote before the Chair can accept another motion?

The Chairman: No. A motion to rise takes precedence over any other motion.

The question is on the motion offered by the gentleman from Kentucky [Mr. Perkins].

Mr. [Leslie C.] Arends [of Illinois]: Mr. Chairman, on that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Perkins and Mr. Goodell.

The Committee divided and the tellers reported that there were—ayes 127, noes 186.

So the motion was rejected.

The Chairman: The question is on the preferential motion.

Mr. Jones of Missouri: Mr. Chairman, I demand tellers.

Tellers were refused.

The Chairman: The question is on the preferential motion.

The preferential motion was rejected.

Precedence of Motion to Recommit

§ 11.14 When a bill is reported to the House by the Committee of the Whole with the recommendation that the enacting clause be stricken out, pending the question of concurrence, a motion to recommit the bill to a committee is in order under Rule XXIII clause 7,(20) and is voted on before the recommendation to strike out the enacting clause.

On Mar. 22, 1949,(21) during consideration of H.R. 2681, to provide pensions for veterans of World Wars I and II, and after the Committee of the Whole rose with the recommendation that the enacting clause be stricken out, Speaker Sam Rayburn, of Texas, stated that pending the question of concurrence on the motion to strike the enacting clause a motion to recommit the bill to committee was in order. The House voted on the motion to recommit before the recommendation to strike the enacting clause.

The proceedings were as follows:

Mr. [John A.] Carroll [of Colorado]: Mr. Chairman, I offer a preferential motion.

---

20. *House Rules and Manual* § 875 (1979).

21. 95 Cong. Rec. 2962–65, 81st Cong. 1st Sess.

The Clerk read as follows:

> Mr. Carroll moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. . . .

The Chairman:[1] The question is on the preferential motion of the gentleman from Colorado.

The question was taken; and the Chair being in doubt, the Committee divided, and there were—ayes 154, noes 139.

Mr. [John E.] Rankin [of Mississippi]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. Carroll and Mr. Rankin.

The Committee again divided; and the tellers reported that there were—ayes 163, noes 154.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Gore, Chairman of the Committee . . . reported that the Committee . . . had directed him to report the bill back to the House with the recommendation that the enacting clause be stricken out.

The Speaker: The question is on the recommendation of the Committee of the Whole House on the state of the Union that the enacting clause be stricken out.

Mr. Carroll: Mr. Speaker, I offer a motion to recommit.

The Clerk read as follows:

> Mr. Carroll moves that the bill H.R. 2681 be recommitted to the Committee on Veterans' Affairs.

Mr. Rankin: Mr. Speaker, I demand a vote on the motion to strike out the enacting clause.

The Speaker: The Chair holds that this motion [to recommit] offered by the gentleman from Colorado at this time is in order.

Mr. Carroll: Mr. Speaker, I move the previous question.

The previous question was ordered.

The question was taken on the motion to recommit [which was rejected]. . . .

The Speaker: The question is on the recommendation of the Committee of the Whole House on the State of the Union that the enacting clause be stricken out. Those in favor of voting to strike out the enacting clause of the bill will, when their names are called, vote "aye"; those opposed vote "nay.". . .

The yeas and nays were ordered.

The question was taken; and there were—yeas 120, nays 291, not voting 22, as follows: . . .

So the recommendation of the Committee of the Whole was rejected. . . .

The Speaker: The House automatically resolves itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 2681.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 2681, with Mr. Gore in the chair.

The Clerk read the title of the bill.

The Chairman: When the Committee rose, there was an amendment pending offered by the gentleman from New York [Mr. Kearney].

---

[1] Albert A. Gore (Tenn.).

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Chairman, I ask unanimous consent that the amendment be reread for the information of the Committee.

THE CHAIRMAN: Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

When the Committee of the Whole agreed to a motion to rise that day, the Chairman reported that the Committee had come to no resolution on H.R. 2681. The Committee of the Whole considered the measure again on the following day. On Mar. 24, 1949, the House again resolved into the Committee of the Whole for further consideration of H.R. 2681.(2) Subsequently, Mr. Olin E. Teague, of Texas, moved that the Committee rise and report back to the House with the recommendation that the enacting clause be stricken, creating a parliamentary situation that Mr. Francis H. Case, of South Dakota, suggested was similar to that prevailing on Mar. 22, 1949. This time, however, the House voted to recommit the bill to the Committee on Veterans' Affairs for further study.

§ 12. Procedures; Qualification to Offer or Oppose

Qualification to Offer Motion

§ 12.1 A Member offering a motion to strike out the enacting clause is required upon request of another Member to qualify as being opposed to the bill.

On May 6, 1950,(3) during consideration of H.R. 7786, the general appropriation bill of 1951, Chairman Jere Cooper, of Tennessee, required a Member who offered a motion to strike the enacting clause to qualify as being opposed to the bill.

THE CHAIRMAN: The time of the gentleman from Texas has expired. All time on this amendment has expired.

MR. [HALE] BOGGS of Louisiana: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Boggs of Louisiana moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the further point of order that the gentleman has not stated that he is opposed to the bill.

THE CHAIRMAN: The gentleman from New York makes the point of order that the gentleman from Louisiana is not qualified to offer the motion. The Chair will endeavor to qualify the gentleman.

---

(2) 95 CONG. REC. 3110–15, 81st Cong. 1st Sess.

(3) 96 CONG. REC. 6571, 81st Cong. 2d Sess.

Is the gentleman from Louisiana opposed to the bill?

Mr. Boggs of Louisiana: I am, Mr. Chairman.

The Chairman: The gentleman qualifies.

The gentleman from Louisiana is recognized for 5 minutes.

§ 12.2 It is not in order for a Member in favor of a bill to offer a motion to rise and report with the recommendation that the enacting clause be stricken.

On Mar. 6, 1958,(4) during consideration of H.R. 8002, providing for improved methods of stating budget estimates and estimates for deficiency and supplemental appropriations, Chairman Wilbur D. Mills, of Arkansas, stated that a Member who favors a bill may not offer a motion to rise and report the bill back to the House with instructions to strike out the enacting clause.

Mr. [Clare E.] Hoffman [of Michigan]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Hoffman: Would a motion be in order from a Member who is in favor of the bill, to recommit the bill with instructions that the enacting clause be stricken?

The Chairman: That would not be in order from a Member in favor of the bill.(5)

§ 12.3 The Chair overruled the point of order that a motion to strike out the enacting clause of a bill was dilatory where the Member offering the motion stated his opposition to the bill.

On Mar. 30, 1950,(6) during consideration of H.R. 7797, to provide foreign economic assistance, Chairman Oren Harris, of Arkansas, ruled on a point of order that a motion to strike out the enacting clause was dilatory:

Mr. [James G.] Fulton [of Pennsylvania]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Fulton moves that the Committee do now rise and that the bill be reported to the House with the enacting clause stricken.

Mr. [Frank B.] Keefe [of Wisconsin]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

---

(4) 104 Cong. Rec. 3614, 85th Cong. 2d Sess.

(5) A Member rising to make a parliamentary inquiry may not under that guise offer a motion to strike out the enacting clause but must have the floor in his own right for that purpose. 8 Cannon's Precedents § 2625.

(6) 96 Cong. Rec. 4424, 81st Cong. 2d Sess.

MR. KEEFE: Mr. Chairman, I make the point of order against the preferential motion that it is dilatory. The gentleman from Pennsylvania is not opposed to this bill and is not in good faith asking that the enacting clause be stricken out; he is advocating this bill vehemently and is simply taking this means to get 5 minutes time when many others of us have been waiting for 2 days trying to get time, but in vain.

THE CHAIRMAN: The Chair would like to inquire of the gentleman from Pennsylvania [Mr. Fulton] if he is opposed to the bill?

MR. FULTON: In its present form I would be opposed to it.

THE CHAIRMAN: The Chair must accept the statement of the gentleman from Pennsylvania.

The Chair overrules the point of order and recognizes the gentleman from Pennsylvania in support of his preferential motion.

Presumptions as to Proponent's Qualification

§ 12.4 Where a motion is made that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken, the Chair assumes that the proponent favors the motion.

On May 5, 1955,[7] the Committee of the Whole was considering H.R. 12, providing price supports for basic commodities, under Chairman Robert L. F. Sikes, of Florida. A point of order was raised as to the qualification of the proponent of a motion to strike the enacting clause of the bill.

MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Abernethy moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE CHAIRMAN: The gentleman from Mississippi is recognized for 5 minutes in support of his motion.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. HOFFMAN of Michigan: The gentleman from Mississippi has made a motion to strike out the enacting clause and report the bill back to the House with that recommendation. I challenge his right to speak unless he is in favor of his motion.

THE CHAIRMAN: The Chair assumes the gentleman is in favor of his motion.

§ 12.5 In recognizing a Member for a motion to strike out the enacting clause the Chair will accept the statement of that Member that he is opposed to the bill.

On Mar. 30, 1950,[8] during consideration of H.R. 7797, to provide foreign economic assistance, Chairman Oren Harris, of Arkansas, ruled on a point of order that a Member seeking recognition on a motion to strike the enacting clause was not acting in good faith.

---

[7] 101 CONG. REC. 5774, 84th Cong. 1st Sess.

[8] 96 CONG. REC. 4424, 81st Cong. 2d Sess.

Mr. [James G.] Fulton [of Pennsylvania]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Fulton moves that the Committee do now rise and that the bill be reported to the House with the enacting clause stricken.

Mr. [Frank B.] Keefe [of Wisconsin]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Keefe: Mr. Chairman, I make the point of order against the preferential motion that it is dilatory. The gentleman from Pennsylvania is not opposed to this bill and is not in good faith asking that the enacting clause be stricken out; he is advocating this bill vehemently and is simply taking this means to get 5 minutes time when many others of us have been waiting for 2 days trying to get time, but in vain.

The Chairman: The Chair would like to inquire of the gentleman from Pennsylvania [Mr. Fulton] if he is opposed to the bill?

Mr. Fulton: In its present form I would be opposed to it.

The Chairman: The Chair must accept the statement of the gentleman from Pennsylvania.

The Chair overrules the point of order and recognizes the gentleman from Pennsylvania in support of his preferential motion.

Effect of Closed Rule

§ 12.6 Where a bill is being considered in the Committee of the Whole under a rule permitting only committee amendments, any Member may offer a motion during the stage of amendment that the Committee of the Whole rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

On June 29, 1951,(9) a motion that the Committee of the Whole rise and report to the House with the recommendation that the enacting clause be stricken out was offered during consideration of House Joint Resolution 278, to continue for a temporary period the Defense Production Act of 1950 and the Housing and Rent Act of 1947. The joint resolution was being considered under House Resolution 294, which permitted only committee amendments and one other specified amendment.(10)

---

9. 97 Cong. Rec. 7498, 82d Cong. 1st Sess.

10. See *id.* at p. 7482, for the text of this resolution.

The proceedings were as follows:

Mr. [Harold D.] Cooley [of North Carolina]: Mr. Chairman, I offer the amendment authorized by the resolution.

The Clerk read as follows: . . .

[Debate ensued on the Cooley amendment.]

Mr. [Clare E.] Hoffman of Michigan: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Hoffman of Michigan moves that the Committee do now rise and report the resolution back to the House with the recommendation that the enacting clause be stricken.

Mr. Hoffman of Michigan: Mr. Chairman, the parliamentary procedure here which we have just gone through is about on a par with the way in which the price- and wage-control law which we gave the President on September 8, 1950, has been interpreted and administered by the administration; and I say that with all due respect to the rulings of the Chairman.

It was my understanding when the gentleman from North Carolina [Mr. Cooley] rose and asked consent to present an amendment that what he was doing was getting permission to offer his amendment to the amendment which is printed in the resolution. I now discover that I apparently have been negligent and did not know what was going on, because, as I understand the ruling of the Chair, all we get now is one vote on the amendment set forth in the resolution as amended by the Cooley amendment, and that we do not have an opportunity to vote on the amendment to the amendment; otherwise, of course, I would have objected. . . .

Mr. Chairman, I ask unanimous consent to withdraw my preferential motion.

The Chairman [Wilbur D. Mills, of Arkansas]: Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Chairman: The question is on the amendment offered by the gentleman from North Carolina [Mr. Cooley].

The question was taken; and on a division (demanded by Mr. Spence) there were—ayes 143, noes 87.

Mr. [Jacob K.] Javits [of New York]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Cooley and Mr. Deane.

The Committee again divided; and the tellers reported that there were—yeas 165, noes 106.

So the amendment was agreed to.

Parliamentarian's Note: No point of order was made against Mr. Hoffman's motion, but, if the point was made, the motion would have been held in order under Rule XXIII clause 7.

Committee Chairman as Proponent

§ 12.7 The chairman of the legislative committee from which a bill was reported, having expressed his objections to the bill and relinquished control of it, offered

a motion to strike the enacting clause of the bill.

On July 5, 1956,(11) immediately after the House resolved itself into the Committee of the Whole for further consideration of H.R. 7535, to authorize federal assistance to the states and local communities in financing to eliminate the national shortage of classrooms, legislative committee Chairman Graham A. Barden, of North Carolina, expressed his objections, relinquished control of the bill, and later offered a motion to strike out the enacting clause.

> MR. BARDEN: Mr. Chairman, I move to strike out the last word.
>
> Mr. Chairman, I have a brief statement I should like to make to the House.
>
> For 22 years I have done my best to be sincere and frank with the membership of this House. I propose to continue that, both in attitude and in practice.
>
> I have very definitely reached the conclusion that the American people do not want this legislation in its present form. Certain things have happened to the bill that make it very, very obnoxious and objectionable to the people I represent.
>
> I never have claimed to be an expert when advocating something that I was sincerely and conscientiously for. I have always felt I would be a complete flop in trying to advocate something I did not believe in and did not advocate. This bill is objectionable to me. It has so many bad features and so many things have been given priority over the consideration of the objective that we set out to accomplish that I must say, in all frankness, to the House I cannot continue in the position here of directing this bill. I feel that someone who can be fairer to the bill in its present shape than I, should handle the bill. I would have to be a much better actor than I now am to proceed in the position of handling this piece of legislation which I cannot support and do not want to pass. For that reason, I want the House to understand my very definite position in the matter. So, with that, I think the House will understand my position and those in a position on the committee to handle the bill will have my cooperation to a certain extent, but no one need to expect any assistance from me or any encouragement for the bill. . . .
>
> Mr. Chairman, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Barden moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.
>
> Mr. Chairman, I offer this motion to strike the enacting clause because I think it proper and in the interest of good legislation. I think it is something the majority of the Members of this House want to do, for I think the bill is now in such shape that it will in the final analysis be defeated. So, without consuming 5 minutes, I say to the

---

11. 102 CONG. REC. 11859, 84th Cong. 2d Sess.

House that I hope you will adopt this motion and save a lot of time. . . .

The Chairman:[12] The question is on the preferential motion offered by the gentleman from North Carolina, Mr. Barden.

Mr. [Martin] Dies [Jr., of Texas]: Mr. Chairman, I demand tellers on this vote.

Tellers were ordered, and the Chairman appointed as tellers Mr. Barden and Mr. McConnell.

The Committee divided; and the tellers reported that there were—ayes 130, noes 148.

So the motion was rejected.

Offering Motion to Secure Debate Time

§ 12.8 When because of a time limitation on debate a Member is unable to speak during the stage of amendment, a motion to strike out the enacting clause is sometimes used to secure time for debate.

On Feb. 23, 1940,[13] during consideration of House Joint Resolution 407, regarding trade agreements, Chairman Clifton A. Woodrum, of Virginia, indicated that a Member may offer a motion to strike out the enacting clause and thereby secure time for debate when he is unable to obtain time to speak during the stage of amendment.

Mr. [Frank] Crowther [of New York]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Crowther moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. [Lindsay C.] Warren [of North Carolina]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Warren: Mr. Chairman, I hope that the present occupant of the chair, with the long experience he has had in presiding over the Committee of the Whole, will now come to the conclusion that the motion offered by the gentleman from New York is out of order.

The motion for the Committee to rise and strike out the enacting clause is one of the highest preferential motions that can be offered in this body. We have seen the time fixed for the closing of the debate on this particular amendment. The gentleman from New York [Mr. Crowther] had full opportunity to get recognition, or to ask for recognition, within the time fixed by the Committee itself for closing debate. In 9 cases out of 10, when this motion is offered, it is done for a frivolous purpose, and such a high motion, privileged as it is, should not be offered for this purpose; and I hope the Chair, of his own accord, will rule it out of order. . . .

---

[12] Francis E. Walter (Pa.).

[13] 86 Cong. Rec. 1883, 76th Cong. 2d Sess. See also 91 Cong. Rec. 5149, 79th Cong. 1st Sess., May 26, 1945.

The Chairman: The Chair appreciates the fundamental proposition involved in the point of order raised by the gentleman from North Carolina [Mr. Warren]. Undoubtedly, under a strict construction of the rules of the House, the motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out is a motion of high order and should not be resorted to as a frivolous motion. The Chair, however, cannot blot out of his memory 17 years of service in the House in which, almost without exception, so far as the Chair knows, Members of both parties on both sides of the aisle have resorted to the motion when, because of a limitation of debate, they were unable to get time. In the particular instance the gentleman from New York [Mr. Crowther], the ranking minority member on the committee, who is opposed to the bill, sought to get time and the Chair had committed himself and the debate was limited. The Chair certainly does not think this would be an appropriate time to depart from the universal custom of the House, and the Chair, therefore, overrules the point of order and recognizes the gentleman from New York [Mr. Crowther].

Parliamentarian's Note: The Member making the motion must on request qualify as being opposed to the bill.

§ 12.9 Debate on a paragraph of a bill having been exhausted in the Committee of the Whole, it is in order, to secure time for debate, to move that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out if the proponent of the motion is opposed to the bill.

On Mar. 13, 1942,(14) during consideration of the agriculture appropriations bill, 1943, Chairman Robert Ramspeck, of Georgia, overruled a point of order to the effect that a Member cannot be recognized on a motion to strike out the enacting clause if the intent in offering the motion is merely to obtain time for debate.

Mr. [Andrew J.] May [of Kentucky]: Mr. Chairman, I offer a preferential motion.

The Chairman: The Clerk will report the motion.

The Clerk read as follows:

> Mr. May moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The Chairman: The gentleman from Kentucky is recognized for 5 minutes in support of his motion.

Mr. May: When I am through talking at the end of 5 minutes, of course, I expect to withdraw this motion, or if

---

14. 88 Cong. Rec. 2439, 77th Cong. 2d Sess.

that permission is refused me I expect the House to vote it down.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman from Missouri will state the point of order.

MR. MAY: Mr. Chairman, I have not yielded for a point of order.

MR. CANNON of Missouri: Mr. Chairman, I make the point of order that under the unanimous-consent agreement all time for debate has expired and the gentleman cannot be recognized on a motion to strike out the enacting clause . . . offered merely to secure time for debate.

THE CHAIRMAN: Does the gentleman from Kentucky desire to be heard on the point of order?

MR. MAY: Yes, Mr. Chairman. . . .

. . . I stated that I offered the motion to strike out the enacting clause, but that I expected at the end of my remarks to withdraw it, or if permission was not granted me to withdraw it, that I expected the Committee would vote it down. I did not ask them to vote it down. I said I would exercise a right which I have under the rules of the House to ask to withdraw a motion.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, a further point of order.

THE CHAIRMAN: The gentleman from Michigan will state his further point of order.

MR. HOFFMAN: The gentleman from Kentucky has not said that he was opposed to the bill.

THE CHAIRMAN: Is the gentleman from Kentucky opposed to the bill?

MR. MAY: I am in favor of the two amendments, and I am in favor of all the reductions that have been made in these appropriations.

THE CHAIRMAN: The gentleman has not answered the Chair's question. Is the gentleman opposed to the bill?

MR. MAY: Does the Chairman mean the entire bill?

THE CHAIRMAN: Yes.

MR. MAY: I am opposed to the bill in its present form.

THE CHAIRMAN: The gentleman qualifies.

MR. CANNON of Missouri: If the Chair will indulge me further, we are now operating under a special order of the Committee of the Whole under which debate was closed at the end of an hour. The gentleman now proposes to violate the special order and concedes that is his purpose by announcing that, at the close of his remarks, he will withdraw the motion. But the gentleman is obviously out of order even had he not made that admission, as no one seriously offers a motion to strike out the enacting clause of a bill of this character and the Chair should take judicial notice of that self-evident fact.

The proposal of the motion at this time also violates another rule of the House—a universal rule of debate in every parliamentary body in the world—that the committee shall have the right to close debate.

The proposal of my good friend the gentleman from Kentucky with whom I have served for many years and for whom I have the highest regard, is all the more flagrant in view of the fact that he could have secured time when the order was made, but made no effort to do so.

Nothing could be more unfair and more conducive of disorder or more at variance with parliamentary equity than the proposal to disrupt the program agreed upon by order of the Committee of the Whole.

The gentleman is not entitled to recognition on such a patent subterfuge.

THE CHAIRMAN: The gentleman from Kentucky qualifies. The point of order is overruled.

§ 12.10 The practice of offering motions to strike out the enacting clause of a bill merely to obtain time for debate has been criticized as an invasion of the right of the Committee of the Whole to close debate.

On Feb. 26, 1940,[15] during consideration of H.R. 8641, a supplemental appropriations bill, Mr. Clarence Cannon, of Missouri, stated his objections to the use of the motion to strike out the enacting clause to obtain time for debate.

> MR. CANNON of Missouri: . . . One practice, however, has grown up, and is being resorted to with increasing frequency of late, which, if continued, will require some change, either in the rules themselves or preferably through the decision of some able and experienced chairman. It is the unwarranted practice of using, on every occasion and any occasion, the motion to strike out the enacting clause for the purpose of obtaining the floor for debate. Of late, there is rarely an instance in which a consent agreement is secured to limit debate in the Committee of the Whole but what some Member nullifies the agreement and disregards the established rules of debate by moving to strike out the enacting clause. The Member could have asked to be included at the time debate was agreed on and have had his quota of time in regular order, but he waits until all time has expired and the Committee has closed debate, as is its right, and then disrupts the proceedings by again opening the question to debate in disregard of the understanding to which all interested Members on both sides of the aisle have agreed, or by vitiating the right of those in charge of the bill to close debate. Such misuse of the motion is unwarranted and is in bad taste and verges on bad faith. If my warm, personal friend from New York will indulge me by permitting me to use his recent motion as an example, in answer to my point of order, he said he had made the motion in good faith. . . .
>
> MR. [KARL E.] MUNDT [of South Dakota]: Mr. Chairman, will the gentleman yield?
>
> MR. CANNON of Missouri: I yield to the gentleman from South Dakota.
>
> MR. MUNDT: Will the gentleman advise me, a new Member of the House, what other course a Member may take

---

[15] 86 CONG. REC. 2017–19, 76th Cong. 3d Sess. See 88 CONG. REC. 2439, 2441, 2442, 77th Cong. 2d Sess., Mar. 13, 1942, for other statements by Mr. Cannon on this subject.

to get access to the floor if a situation arises such as occurred last Friday, when debate was ruthlessly closed and no time was permitted, except about 34 minutes out of the day, for Members other than committee members to introduce amendments? What other recourse does a Member have except to offer such a motion?

MR. CANNON of Missouri: That would not give a Member an opportunity to introduce an amendment, it would merely give him 5 minutes to interfere with the orderly program of the House.

MR. MUNDT: It would give him 5 minutes to present the viewpoint of his constituents.

MR. CANNON of Missouri: If the rules permitted every Member of the House time in which to present the views of his constituents, we would never be able to dispose of the business of the House in an ordinary session. Gentlemen may extend their remarks, and in full, on any bill under consideration and still keep within legitimate procedure. . . .

The right of the House to close debate is indispensable. Without it, debate would proceed endlessly. And the right of the Committee or the proponent to close debate is axiomatic. To interfere with either right is disorderly and should be held by the Chair. . . .

. . . Whenever the motion [recommending that the enacting clause be stricken] is offered it should raise in the mind of the Chair and of the Members of the Committee the question: "What is the purpose of the gentleman in offering the motion; is the motion proposed for the purpose of discontinuing consideration of the bill, or is it offered for the purpose of securing time and disrupting the order of debate?" And when obviously offered for the latter purpose it should never be recognized.

Qualification to Oppose Motion

§ 12.11 To obtain recognition to oppose a motion to strike out the enacting clause, a Member must qualify by stating that he is opposed to the motion.

On July 20, 1951,(16) during consideration of H.R. 3871, amendments to the Defense Production Act of 1950, Chairman Wilbur D. Mills, of Arkansas, stated the qualifications necessary for a Member seeking recognition to oppose a motion to strike out the enacting clause.

MR. [CHARLES W.] VURSELL [of Illinois]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Vursell moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, I rise in opposition to the motion.

---

16. 97 CONG. REC. 8539, 82d Cong. 1st Sess. See 95 CONG. REC. 5531, 81st Cong. 1st Sess., May 3, 1949, for another example of this principle.

THE CHAIRMAN: The Chair recognizes the gentleman from Michigan. . . .

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, I rise in opposition to the motion.

THE CHAIRMAN: The Chair would have to hold that he had already recognized the gentleman from Michigan.

MR. MCCORMACK: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. MCCORMACK: The point is that the gentleman from Michigan, on at least two occasions, has made the same motion. . . .

Furthermore, the gentleman from Michigan has not stated that he is, in fact, opposed to the motion offered by the gentleman from Illinois.

THE CHAIRMAN: Does the gentleman from Michigan now qualify as being in opposition to the motion offered by the gentleman from Illinois?

MR. HOFFMAN of Michigan: I certainly do.

MR. MCCORMACK: Under those circumstances, I do not seek recognition.

Recognition of Opponent

§ 12.12 In recognizing a Member in the Committee of the Whole in opposition to a motion to strike out the enacting clause, the Chair extends such recognition on the basis of the Member's opposition to the motion, and the Member's position on an amendment pending when the motion is offered is not determinative.

On Nov. 29, 1945,(17) during consideration of H.R. 4805, the first defense appropriations bill, 1946, Chairman R. Ewing Thomason, of Texas, indicated that the Chair would not anticipate the argument a Member might make when he seeks recognition to debate a motion to strike the enacting clause.

MR. [ALBERT J.] ENGEL of Michigan: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Engel of Michigan moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

THE CHAIRMAN: Is the gentleman opposed to the bill?

MR. ENGEL of Michigan: I am, Mr. Chairman, in its present form.

THE CHAIRMAN: The Chair recognizes the gentleman from Michigan.

MR. ENGEL of Michigan: Mr. Chairman, in speaking against this appropriation I want it distinctly understood that I am not opposed to flood control. . . .

MR. [CLIFTON A.] WOODRUM of Virginia: Mr. Chairman, I am opposed to the motion offered by the gentleman from Michigan, and I ask recognition.

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

---

17. 91 CONG. REC. 11204, 11206, 79th Cong. 1st Sess.

Mr. Tarver: Mr. Chairman, the technical motion to strike out the enacting clause of course entitles its proponent to 5 minutes and its opponent to 5 minutes, but if the gentleman from Virginia is recognized the entire 10 minutes will be consumed in argument against the amendment which is now pending, while other members of the committee are limited to a minute and a half each. At least half of that 10 minutes, 5 minutes, ought to be given to the proponents of the amendment.

The Chairman: The Chair cannot anticipate what the gentleman's argument will be. Besides, the gentleman from Virginia has said he is opposed to the motion offered by the gentleman from Michigan.

Mr. Tarver: He is opposed to the motion and also to the amendment.

The Chairman: The gentleman from Virginia is recognized for 5 minutes.

Recognizing Committee Member as Opponent

§ 12.13 In recognizing a Member in opposition to a motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken, the Chair extends preference to a member of the committee handling the bill.

On Mar. 1, 1950,[18] during consideration of H.R. 4846, relating to the National Science Foundation, Chairman Clark W. Thompson, of Texas, indicated that a member of the committee handling the bill is extended preference to oppose a motion to strike the enacting clause.

Mr. [Clare E.] Hoffman of Michigan: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Hoffman of Michigan moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. Hoffman of Michigan: . . . Now to save time, I ask unanimous consent to withdraw my motion.

Mr. [Francis H.] Case of South Dakota: Mr. Chairman, I object, and claim time in opposition to the motion.

Mr. [Carl] Hinshaw [of California]: Mr. Chairman, I rise in opposition to the motion.

Mr. [Oren] Harris [of Arkansas]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Harris: This is a preferential motion to strike out the enacting clause, and I believe a committee member is entitled to recognition.

The Chairman: The gentleman is correct. The Chair recognizes the gentleman from California [Mr. Hinshaw].

Recognizing Member of Opposition Party

§ 12.14 When no member of the committee from which a bill is reported seeks recognition in op-

---

[18] 96 Cong. Rec. 2597, 2598, 81st Cong. 2d Sess.

position to a motion to strike the enacting clause, the Chair recognizes a member of a political party other than that of the proponent of the motion.

On Aug. 2, 1955,(19) during consideration of H.R. 7718, authorizing the Capital Transit Company to surrender its franchise, Chairman Aime J. Forand, of Rhode Island, recognized a member from the the Democratic Party, Elijah L. Forrester, of Georgia, to speak in opposition to a motion to strike the enacting clause. The Member who offered the motion, Clare E. Hoffman, of Michigan, and the Member who sought but was denied recognition, Donald W. Nicholson, of Massachusetts, were Republicans. No member of the committee which reported the bill sought recognition to oppose the motion.

> MR. HOFFMAN of Michigan: Mr. Chairman, I offer a motion.
>
> The Clerk read as follows:
>
> > Mr. Hoffman of Michigan moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken. . . .

After Mr. Hoffman spoke in support of his motion and asked unanimous consent to withdraw his motion, the following proceedings occurred:

> MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I object, and I rise in opposition to the preferential motion.
>
> Mr. Forrester rose and Mr. Nicholson rose.
>
> THE CHAIRMAN: For what purpose does the gentleman from Georgia rise?
>
> MR. NICHOLSON: Mr. Chairman, I rise to make a point of order. Two of us were seeking recognition here.
>
> THE CHAIRMAN: The Chair is inclined to be fair. One Member on the Republican side had just spoken and therefore the Chair considered the gentleman on the other side of the aisle was entitled to recognition.
>
> MR. NICHOLSON: I am glad the Chairman is willing to be fair.
>
> THE CHAIRMAN: The gentleman from Georgia [Mr. Forrester] is recognized.

Speaker as Opponent

§ 12.15 The Speaker took the floor in opposition to a motion to strike out the enacting clause of a bill.

On Mar. 4, 1952,(20) during consideration of H.R. 5904, the National Security Training Corps Act, Speaker Sam Rayburn, of Texas, took the floor to debate a motion to strike the enacting clause of a bill. Speaker Rayburn opposed the motion on the ground that it would

---

19. 101 CONG. REC. 12997, 84th Cong. 1st Sess.

20. 98 CONG. REC. 1829, 1830, 82d Cong. 2d Sess.

ultimately result in recommittal of the bill to committee.

The Chairman:(1) The Clerk will report the motion of the gentleman from Massachusetts.

The Clerk read as follows:

> Mr. [William H.] Bates of Massachusetts moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. . . .

[After debate in favor of the motion]

Mr. Rayburn: Mr. Chairman, I trust that you will not think I am speaking out of turn because I am trying to bring you the counsel of a very old friend. . . .

How many years of study have we had on this subject? I think I appointed Mr. Cliff Woodrum, of Virginia, some years ago to begin the study of this matter. The present Committee on Armed Services has taken thousands of pages of testimony and heard everybody pro and con who wanted to be heard. Why send this back for further study? Do we not have the fortitude, do we not have the courage to meet the issue today? Now is the time to meet this issue, because probably we shall never have an opportunity this year or maybe in several years to come.

Strike the enacting clause out. Of course, as the gentleman from Massachusetts said, it is a parliamentary move to get back into the House of Representatives and then to make a motion to recommit.

Are we not willing, do we not have judgment enough, do we doubt our ability to pass on amendments and pass on the fundamental issues here presented? If we are not ready today, when will we be ready? . . .

So let us vote down the motion in committee. Let us proceed in an orderly way and try to amend this bill. Let us not escape our responsibility, and that is what we would be doing, and whether it is amended or not, when it is adopted and the final outcome is before us, then is the time for men of judgment, men of reason, men of capacity to vote on this bill and not until that time.

The Chairman: The question is on the motion offered by the gentleman from Massachusetts [Mr. Bates].

Mr. [Carl] Vinson [of Georgia]: Mr. Chairman, on that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Kilday and Mr. Bates of Massachusetts.

The Committee divided; and the tellers reported that there were—ayes 167, noes 196.

So the motion was rejected.

Effect of Recognizing Objection to Withdrawal of Motion

§ 12.16 Recognition of a Member to object to a unanimous-consent request for the withdrawal of a motion in the Committee of the Whole to strike out the enacting clause does not extend recognition to speak in opposition to the motion.

On Mar. 1, 1950,(2) during con-

---

1. Jere Cooper (Tenn.).

2. 96 Cong. Rec. 2597, 2598, 81st Cong. 2d Sess.

sideration of H.R. 4846, regarding the National Science Foundation, Chairman Clark W. Thompson, of Texas, ruled on the effect of extending recognition to object to a unanimous-consent request to withdraw a motion to strike the enacting clause.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Hoffman of Michigan moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

MR. HOFFMAN: . . . Now, to save time, I ask unanimous consent to withdraw my motion.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I object, and claim time in opposition to the motion.

MR. [CARL] HINSHAW [of California]: Mr. Chairman, I rise in opposition to the motion.

MR. [OREN] HARRIS [of Arkansas]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. HARRIS: This is a preferential motion to strike out the enacting clause, and I believe a committee member is entitled to recognition.

THE CHAIRMAN: The gentleman is correct. The Chair recognizes the gentleman from California [Mr. Hinshaw].

MR. CASE of South Dakota: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE of South Dakota: The gentleman from South Dakota was recognized, was he not?

THE CHAIRMAN: The gentleman was recognized by the Chair to make an objection, but not to speak.

§ 13. Debate

Debate on a motion to rise and report with the recommendation that the enacting clause be stricken out is limited to five minutes in favor thereof and five minutes in opposition.(3)

Where debate on an amendment and all amendments thereto has been fixed by a limitation of time for debate to a certain number of minutes, as distinguished from a limitation of debate on a bill and all amendments or a limitation to a time certain by the clock, the time used in debating the preferential motion to rise and report with the recommendation that the enacting clause be stricken out (five minutes for, five minutes

---

3. § 13.1, infra.

See also §§ 12.8–12.10, supra, for precedents which relate to offering this motion to secure debate time, and § 15, infra, for precedents which relate to consideration and debate in the Committee generally.

against) does not come out of the limitation.(4)

On the other hand, where time for debate on an amendment is limited to a time certain, or where a time limitation is applied to debate on the bill itself and all amendments thereto, the 10 minutes permitted for debate on such preferential motion comes out of the time remaining under the limitation and reduces the time which may be allocated to Members wishing to speak.(5)

Parliamentarian's Note: Although no time would be permitted for debate on the preferential motion after arrival of the time designated in an agreement limiting debate on a bill and all amendments thereto,(6) a full 10 minutes of debate on the preferential motion would be allowed as long as that much time remained under such an agreement. This amount of time would be available to the proponent and opponent of the preferential motion notwithstanding an allocation of less than five minutes' time to each Member who had sought time to debate the bill and amendments under that agreement.

Duration

§ 13.1 Debate on a preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken is limited to 10 minutes, five minutes to be apportioned among those in favor and five minutes to be apportioned among those in opposition.

On May 6, 1970,(7) during consideration of H.R. 17123, the military procurement authorization for 1970, Chairman Daniel D. Rostenkowski of Illinois, ruled as to the time for debate on a preferential motion that the Committee of the Whole rise and report a bill to the House with a recommendation that the enacting clause be stricken.

MR. [THOMAS P.] O'NEILL [Jr.] of Massachusetts: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. O'Neill of Massachusetts moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, a parliamentary inquiry.

---

4. See § 13.5, infra.
5. See §§ 13.6 and 13.7, infra.
6. See § 13.7, infra.
7. 116 CONG. REC. 14445, 14451, 91st Cong. 2d Sess. See 98 CONG. REC. 1829, 1830, 82d Cong. 2d Sess., Mar. 4, 1952, for another example of this principle.

The Chairman: The gentleman will state it.

Mr. Rivers: How much time is allocated to the gentleman from Massachusetts and do I have any time during which to discuss the motion?

The Chairman: Under the preferential motion the gentleman from Massachusetts is recognized for 5 minutes.

Mr. Rivers: Do I get 5 minutes to speak in opposition to the motion?

The Chairman: The gentleman from South Carolina will be recognized for 5 minutes to speak in opposition to the motion. . . .

Mr. [Sam M.] Gibbons [of Florida]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state his parliamentary inquiry.

Mr. Gibbons: Mr. Chairman, I just want to find out what my rights are in this matter. The gentleman from Massachusetts (Mr. O'Neill) has submitted a preferential motion, and has received 5 minutes time to discuss it. Now, do all the opponents and proponents on that motion have 5 minutes?

The Chairman: The Chair will state that the opponents to the motion are entitled to 5 minutes.

Mr. Gibbons: They are entitled to 5 minutes each?

The Chairman: The Chair will state that the opponents are entitled to only one 5 minutes of rebuttal.

§ 13.2 On a motion to rise and report a bill with the recommendation that the enacting clause be stricken out in the Committee of the Whole, two five-minute speeches are permitted, and the Chair does not recognize extensions of this time.

On Sept. 29, 1966,(8) during consideration of H.R. 15111, the Economic Opportunity Act Amendments of 1966, Chairman Daniel J. Flood, of Pennsylvania, refused to entertain a unanimous-consent request for an extension of time on a motion to rise and report a bill with the recommendation that the enacting clause be stricken out.

Mr. [Paul A.] Fino [of New York]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Fino moves that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

Mr. [William H.] Ayres [of Ohio]: Mr. Chairman, I ask unanimous consent that the gentleman, in view of the interest in this, be given 5 additional minutes.

The Chairman: On a preferential motion, for which the proponent has 5 minutes and for which one opponent has 5 minutes, at which time the motion is put to the Committee, it is not in order.

---

8. 112 Cong. Rec. 24442, 89th Cong. 2d Sess. See 107 Cong. Rec. 20298, 87th Cong. 1st Sess., Sept. 19, 1961; and 97 Cong. Rec. 8371, 8372, 82d Cong. 1st Sess., July 18, 1951, for other examples of this principle.

The gentleman from New York [Mr. Fino] is recognized for 5 minutes.

§ 13.3 On a motion to rise and report a bill with the recommendation that the enacting clause be stricken out in the Committee of the Whole, only two five-minute speeches may be permitted notwithstanding the fact that the second Member, recognized in opposition to the motion, spoke in favor thereof.

On Mar. 18, 1960,[9] Chairman Francis E. Walter, of Pennsylvania, refused to recognize a Member to speak in opposition to a motion to strike out the enacting clause after two five-minute speeches had been made, although the second speaker, who had been recognized in opposition to the motion, spoke in favor of it.

The Clerk read as follows:

> Mr. [Paul C.] Jones of Missouri moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. Jones of Missouri: Mr. Chairman, this motion is made in all sincerity. . . .

Mr. [William M.] Colmer [of Mississippi]: Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, of course I am not in opposition, but I wanted to point out to the gentleman from Missouri [Mr. Jones] who has made a very clear and concise statement about the confusion that we find ourselves in that in these 7 days of debate we have not reached consideration of the bill that the Committee on the Judiciary reported out. We have been laboring over amendments that have been offered, which were never considered or voted upon by the Committee on the Judiciary. . . .

The motion of the gentleman from Missouri should prevail.

The Chairman: The time of the gentleman from Mississippi [Mr. Colmer] has expired.

Mr. [Clare E.] Hoffman of Michigan: Mr. Chairman, a point of order. I seek recognition in opposition to the amendment on the ground that the gentleman from Mississippi did not talk against the motion.

The Chairman: The 5 minutes for the preferential motion and the 5 minutes against the motion have expired.

The question is on the motion offered by the gentleman from Missouri [Mr. Jones].

[The motion was rejected.]

Limitation of Time for Debate on Amendments; Effects

§ 13.4 Despite a limitation of time for debate on an amendment and all amendments thereto to a time certain and the subsequent allocation of less than five minutes' time to each Member, a full 10 minutes of debate, five for and

---

[9] 106 Cong. Rec. 6026, 6027, 86th Cong. 2d Sess.

five against, may still be demanded on a preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken.

On May 6, 1970,[10] during consideration of H.R. 17123, the military procurement authorization, 1970, Chairman Daniel D. Rostenkowski, of Illinois, indicated that 10 minutes of debate on a preferential motion that the Committee of the Whole rise and report a bill with the recommendation that the enacting clause be stricken may be demanded despite a limitation of time for debate on an amendment and all amendments thereto to a time certain and the subsequent allocation of less than five minutes to each Member.

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, I move that all debate on the Reid of New York amendment and all amendments thereto close at 5 o'clock.

The question was taken.

MR. RIVERS: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Rivers and Mr. Burton of California.

The Committee divided, and the tellers reported that there were—ayes 147, noes 82.

So the motion was agreed to.

THE CHAIRMAN: The Chair has noted the names of Members standing and seeking recognition under the limitation of time.

The Chair recognizes the gentleman from Texas (Mr. Eckhardt). . . .[11]

After debate by several Members under the allocated time the following proceedings occurred:

MR. [THOMAS P.] O'NEILL [Jr.] of Massachusetts: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. O'Neill of Massachusetts moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

MR. RIVERS: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. RIVERS: How much time is allocated to the gentleman from Massachusetts and do I have any time during which to discuss the motion?

---

[10] 116 CONG. REC. 14445, 14451, 14452, 91st Cong. 2d Sess.

[11] *Note:* Where a limitation on debate to a time certain is agreed to under the five-minute rule, the Chair usually notes the names of those Members who indicate their desire to speak by standing, and equally divides the time between those Members, although the division of time and recognition is largely in the discretion of the Chair. See Ch. 29 §§ 22, 79, infra.

THE CHAIRMAN: Under the preferential motion the gentleman from Massachusetts is recognized for 5 minutes.

MR. RIVERS: Do I get 5 minutes to speak in opposition to the motion?

THE CHAIRMAN: The gentleman from South Carolina will be recognized for 5 minutes to speak in opposition to the motion.

MR. O'NEILL of Massachusetts: Mr. Chairman, I do this in protest to cutting off the debate. Under this procedure we are allocated only 45 seconds. It takes more time than 45 seconds to say "Hello."

MR. [SAM M.] GIBBONS [of Florida]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. GIBBONS: Mr. Chairman, I just want to find out what my rights are in this matter. The gentleman from Massachusetts (Mr. O'Neill) has submitted a preferential motion, and has received 5 minutes' time to discuss it. Now, do all the opponents and proponents on that motion have 5 minutes?

THE CHAIRMAN: The Chair will state that the opponents to the motion are entitled to 5 minutes.

MR. GIBBONS: They are entitled to 5 minutes each?

THE CHAIRMAN: The Chair will state that the opponents are entitled to only one 5 minutes of rebuttal.

§ 13.5 Where the Committee has limited debate on an amendment to a certain number of minutes, the time consumed on a motion to strike the enacting clause is not taken from the time fixed for debate on the amendment previously offered.

On Apr. 28, 1953,(12) during consideration of H.R. 4828, the Department of the Interior appropriations bill, 1954, Chairman J. Harry McGregor, of Ohio, stated that the time consumed on a motion to strike the enacting clause is not taken from the time fixed for debate on a previously offered amendment.

MR. [BEN F.] JENSEN [of Iowa]: Mr. Chairman, I ask unanimous consent that all debate on this amendment, and all amendments thereto, close in 1 hour.

THE CHAIRMAN: Is there objection to the request of the gentleman from Iowa?

There was no objection.

THE CHAIRMAN: The Chair advises each Member will be allowed approximately 3 minutes. . . .

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Hoffman of Michigan moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken. . . .

Following debate on the motion the following proceedings occurred:

THE CHAIRMAN: . . . All time has expired.

---

12. 99 CONG. REC. 4125-28, 83d Cong. 1st Sess.

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. EBERHARTER: The time on the preferential motion offered by the gentleman from Michigan is not taken out of the time already allotted for debate on this subject?

THE CHAIRMAN: That is correct.

§ 13.6 Where time for debate on an amendment is limited to a time certain, the 10 minutes permitted for debate on a preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken comes out of the time remaining under the limitation and reduces the time which may be allocated to Members wishing to speak.

On May 6, 1970,(13) the Committee of the Whole agreed to a motion that all debate on a pending amendment and amendments thereto close at a time certain, 5 o'clock. During debate under the limitation, Mr. Thomas P. O'Neill, Jr., of Massachusetts, offered the preferential motion that the Committee rise and report back the bill with the recommendation that the enacting clause be stricken. Chairman Daniel D. Rostenkowski, of Illinois, stated in response to a parliamentary inquiry that regardless of the allocation by the Chair of time remaining under the limitation, the motion could be debated for 10 minutes, five in favor of and five against the motion.

The Chairman then answered a further parliamentary inquiry on the charging of the time on the motion to the time remaining under the limitation:

MR. [ROBERT L.] LEGGETT [of California]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. LEGGETT: Mr. Chairman, considering the fact that a time limitation has now been set in relation to today at 5 o'clock, does the time of the debate on the motion that we have already heard, come out of the time on the amendments?

THE CHAIRMAN: The time will come out of the time of those who are participating in debate.

MR. LEGGETT: Mr. Chairman, a further parliamentary inquiry. If we chose to rise right now and come back tomorrow, then would there be any time limitation on debate?

THE CHAIRMAN: There would be no further debate.

The time was set at 5 o'clock. The question is on the motion offered by the gentleman from Massachusetts (Mr. O'Neill).

The motion was rejected.

---

13. 116 CONG. REC. 14452, 91st Cong. 2d Sess.

Limitation of Time for Debate on Bill and Amendments; Effect

§ 13.7 A preferential motion that the Committee of the Whole rise with the recommendation that the enacting clause be stricken out is not debatable after all time for debate on the bill and all amendments thereto has expired.

On July 9, 1965,[14] during consideration of H.R. 6400, the Voting Rights Act of 1965, Chairman Richard Bolling, of Missouri, refused to permit a preferential motion to be made because the time to conclude all debate on the bill and amendments had arrived.

> THE CHAIRMAN: All time has expired.
>
> MR. GERALD R. FORD [of Michigan]: Mr. Chairman, I was on the list, but the time has expired. I have a preferential motion.
>
> THE CHAIRMAN: All debate is concluded even with a preferential motion. The agreement was that all debate would conclude at 7:20 p.m. The hour is now 7:20 p.m. There is no further time.
>
> The question is on the committee amendment, as amended.

Parliamentarian's Note: Where debate on an amendment and all amendments thereto has been fixed by a limitation of time for debate, and not a limitation to a time certain by the clock, the time used in debating the preferential motion to strike the enacting clause (five minutes for, five minutes against) does not come out of the limitation; but where the limitation of debate is on the bill and all amendments, time consumed on the preferential motion comes out of the remaining time in either case.

Scope of Debate

§ 13.8 On a motion that the Committee of the Whole rise and report back to the House with the recommendation that the enacting clause be stricken out, the merits of the entire bill are open to debate.

On May 25, 1967,[15] during consideration of S. 1432, amending the Universal Military Training and Service Act, Chairman Robert L. F. Sikes, of Florida, stated that the entire bill is open for debate on a motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken out.

---

[14] 111 CONG. REC. 16280, 89th Cong. 1st Sess.

[15] 113 CONG. REC. 14145–48, 90th Cong. 1st Sess. See 101 CONG. REC. 5774, 84th Cong. 1st Sess., May 5, 1955; and 81 CONG. REC. 373, 75th Cong. 1st Sess., Jan. 22, 1937, for other examples of this principle.

Mr. [L. Mendel] Rivers [of South Carolina]: Mr. Chairman, I move that all debate on the pending amendment and all amendments thereto close in 15 minutes.

The Chairman: The question is on the motion of the gentleman from South Carolina.

The motion was agreed to. . . .

Mr. [William F.] Ryan [of New York]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Ryan moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The Chair: The gentleman from New York is recognized for 5 minutes in support of his motion.

Mr. Ryan: Mr. Chairman and Members of the Committee, I rise to support the gentleman from Illinois [Mr. Rumsfeld], and to echo the sentiments of Mr. Ottinger, of New York.

Mr. [Craig] Hosmer [of California]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state his point of order.

Mr. Hosmer: The gentleman has made a motion that the Committee rise, and he was recognized to speak in support of his motion. He now states that he is speaking in support of the amendment that is before the House. My point of order is that his text is out of order. It is not germane.

The Chairman: The Chair is constrained to state that this motion would open the entire field of the bill, and therefore the Chair holds that the gentleman is proceeding in order.

§ 13.9 Debate on a motion to rise and report with the recommendation that the enacting clause be stricken is not limited to the motion but may go to the entire bill under consideration.

On Nov. 15, 1967,(16) during consideration of S. 2388, the Economic Opportunity Act Amendments of 1967, Chairman John J. Rooney, of New York, ruled on the effect on debate of the preferential motion to rise and report a bill with a recommendation that the enacting clause be stricken.

Mr. [Charles E.] Goodell [of New York]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Goodell moves that the Committee do now rise and report the

---

16. 113 Cong. Rec. 32679, 90th Cong. 1st Sess. See, for example, 97 Cong. Rec. 8476, 8477, 82d Cong. 1st Sess., July 19, 1951; 95 Cong. Rec. 4402, 81st Cong. 1st Sess., Apr. 12, 1949; 94 Cong. Rec. 8679, 80th, Cong. 2d Sess., June 17, 1948; and 93 Cong. Rec. 4087, 80th Cong. 1st Sess., Apr. 25, 1947, for other illustrations of this principle.

> bill back to the House with the recommendation that the enacting clause be stricken out.

The Chairman: The gentleman from New York [Mr. Goodell] is recognized for 5 minutes. . . .

Mr. [John E.] Moss [Jr., of California]: Mr. Chairman, the gentleman is not proceeding in order—he is not discussing the preferential motion.

Mr. Goodell: I am leading up to that.

Mr. Moss: Mr. Chairman, I ask that the gentleman be instructed to proceed in order.

The Chairman: The Chair will state that the preferential motion opens up the whole bill for discussion, and the gentleman is in order.

§ 13.10 Debate on a preferential motion that the Committee rise with the recommendation that the enacting clause be stricken may go to any part of the bill and is not confined to the proposition pending when the motion is offered.

On June 18, 1970,[17] during consideration of H.R. 17070, the Postal Reform Act of 1970, Chairman Charles M. Price, of Illinois, stated that debate on a motion that the Committee of the Whole rise with the recommendation that the enacting clause be stricken may go to any part of the bill.

Mr. [Fletcher] Thompson of Georgia: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Thompson of Georgia moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. Thompson of Georgia: Mr. Chairman, I regret having to take this maneuver in order to obtain this time. I certainly hope that the Members will not vote in favor of this particular motion for the House to rise and to strike the enacting clause.

The subject we are considering today is something that does require extensive debate. It is simply a question as to whether or not we are going to have a fragmented country or a uniform country.

The gentleman from Florida quoted the phrase, "equal pay for equal work." This certainly is the question, equal pay for equal work.

Mr. [Edward J.] Derwinski [of Illinois]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state his point of order.

Mr. Derwinski: Mr. Chairman, I make the point of order that the gentleman is not directing his remarks to his amendment.

The Chairman: The gentleman from Georgia has offered a motion to strike out the enacting clause. Therefore, the gentleman may speak on the whole bill.

---

[17] 116 Cong. Rec. 20440, 91st Cong. 2d Sess.

Pro Forma Amendments During Pendency of Motion to Rise and Recommend Striking Enacting Clause

§ 13.11 Debate on a motion to rise and report with the recommendation that the enacting clause be stricken out is limited to those speaking in favor thereof or in opposition thereto, and no pro forma amendments are recognized while such motion is pending.

On May 5, 1955,(18) during consideration of H.R. 12, providing price supports for basic commodities, Chairman Robert L. F. Sikes, of Florida, indicated that debate on a motion to strike the enacting clause is limited to those in favor or in opposition, with no pro forma amendments being permitted during the pendency of such a motion.

> MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Chairman, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Abernethy moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.
>
> THE CHAIRMAN: The gentleman from Mississippi is recognized for 5 minutes in support of his motion. . . .
>
> For what purpose does the gentleman from New York [Mr. Anfuso] rise?
>
> MR. [VICTOR L.] ANFUSO: To strike out the last word.
>
> THE CHAIRMAN: The gentleman cannot be recognized for that purpose; there is a preferential motion pending.

§ 14. Renewal of Motion

Generally

§ 14.1 Only one motion recommending that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken is in order on the same legislative day unless the text of the bill is changed.

On Mar. 16, 1948,(19) during consideration of S. 2182, extending rent controls, Chairman Walter C. Ploeser, of Missouri, made reference to the general rule against permitting a second motion to strike the enacting clause.

---

18. 101 CONG. REC. 5774, 84th Cong. 1st Sess. See 103 CONG. REC. 13385, 13386, 85th Cong. 1st Sess., Aug. 1, 1957, for another example of this principle.

19. 94 CONG. REC. 2956, 80th Cong. 2d Sess. See, for example, 99 CONG. REC. 9563, 83d Cong. 1st Sess., July 22, 1953; 97 CONG. REC. 8970, 82d Cong. 1st Sess., July 26, 1951; and 95 CONG. REC. 4414, 81st Cong. 1st Sess., Apr. 12, 1949, for other illustrations of this principle.

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Celler moves that the Committee do now rise and report S. 2182 back to the House with the recommendation that the enacting clause be stricken therefrom. . . .

THE CHAIRMAN: The time of the gentleman from California [Mr. Jackson] has expired.

The question is on the motion offered by the gentleman from New York [Mr. Celler].

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. RANKIN: As I understand, only one motion of this kind can be offered to a bill.

THE CHAIRMAN: Unless the text of the bill is changed.

§ 14.2 A second motion to strike out the enacting clause is not entertained in the absence of any material modification of the bill.

On Mar. 26, 1965,(20) during consideration of H.R. 2362, the elementary and secondary education bill of 1965, one motion to strike the enacting clause having been defeated, Chairman Richard Bolling, of Missouri, indicated the circumstances under which a second motion to strike out the enacting clause would be in order.

MR. GEORGE W. ANDREWS [of Alabama]: Mr. Chairman, I offer a preferential motion.

MR. [ADAM C.] POWELL [of New York]: Mr. Chairman, I move that all debate on this section close in 5 minutes.

THE CHAIRMAN: Will the chairman suspend for a minute?

MR. GEORGE W. ANDREWS: Mr. Chairman, I offer a preferential motion.

THE CHAIRMAN: Will the gentleman state his preferential motion?

MR. GEORGE W. ANDREWS: That the Committee rise and strike out the enacting clause.

THE CHAIRMAN: The Chair will have to advise the gentleman from Alabama that that motion will not be in order again until substantial change is made in the bill.

§ 14.3 A second motion to strike out the enacting clause is in order on a bill if a substantial change has been made in the bill since the disposal of the first motion.

On Apr. 6, 1935,(21) during consideration of H.R. 5529, to pre-

---

20. 111 CONG. REC. 6101, 89th Cong. 1st Sess.

See also 108 CONG. REC. 11369, 87th Cong. 2d Sess., June 21, 1962; and 96 CONG. REC. 2235, 81st Cong. 2d Sess., Feb. 22, 1950 (Calendar Wednesday).

21. 79 CONG. REC. 5181, 74th Cong. 1st Sess. See 79 CONG. REC. 12430, 74th Cong. 1st Sess., Aug. 3, 1935, for another example of this principle.

vent war profiteering, Chairman Lindsay C. Warren, of North Carolina, overruled a point of order against the renewal on the same day of a motion to strike the enacting clause, noting that a substantial change had been made in the bill since disposition of the previous motion.

> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I move to strike out the enacting clause.
>
> MR. [LISTER] HILL of Alabama: Mr. Chairman, a point of order.
>
> THE CHAIRMAN: The gentleman from Mississippi will send to the Clerk's desk his motion.
>
> MR. HILL of Alabama: Mr. Chairman, I make the point of order that the motion is dilatory. That motion was voted down yesterday. . . .
>
> THE CHAIRMAN: The Chair overrules the point of order, believing that there has been a substantial change made in the bill since the motion to strike was made. The gentleman from Mississippi moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Parliamentarian's Note: The motion can be renewed on the following legislative day regardless of modification of the bill. See § 14.8, infra.

After Amendment

§ 14.4 A second motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken out is in order if the bill has been amended since disposition of the first motion.

On June 18, 1970(22) during consideration of H.R. 17070, the Postal Reform Act of 1970, Chairman Charles M. Price, of Illinois, stated that a second motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken is in order if business [the adoption of amendments] has transpired since the first such motion.

> MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Chairman, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Wright moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

---

22. 116 CONG. REC. 20481, 91st Cong. 2d Sess. See 86 CONG. REC. 1899, 76th Cong. 3d Sess., Feb. 23, 1940; 84 CONG. REC. 7382, 76th Cong. 1st Sess., June 16, 1939; and 82 CONG. REC. 1119, 75th Cong. 2d Sess., Dec. 8, 1937, for other examples of this principle.

Mr. [Robert J.] Corbett [of Pennsylvania]: Mr. Chairman, a point of order. Has not such a motion already been introduced and defeated?

The Chairman. It has been, but other business has transpired since the first motion to rise and strike the enacting clause. The motion is in order, and the gentleman from Texas is recognized for 5 minutes.

After Rejection of Amendment

§ 14.5 A second motion to strike out the enacting clause is not in order if the only action of the Committee of the Whole in the interim has been the rejection of a proposed amendment to the bill.

On June 21, 1962,(1) during consideration of H.R. 11222, the food and agricultural bill of 1962, Chairman Francis E. Walter, of Pennsylvania, refused to entertain a second motion to strike out the enacting clause because the only action in the interim had been rejection of a proposed amendment to the bill.

The Chairman: The time for debate on title IV has expired.

Mr. [Ancher] Nelsen [of Minnesota]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Nelsen moves that the Committee do now rise and report H.R. 11222 back to the House with the recommendation that the enacting clause be stricken. . . .

The Chairman: The question is on the preferential motion offered by the gentleman from Minnesota.

The motion was rejected.

Mr. [Samuel S.] Stratton [of New York]: Mr. Chairman, I offer an amendment. . . .

The Chairman: . . . The Clerk will report the amendment offered by the gentleman from New York.

The Clerk read as follows: . . .

The Chairman: The question is on the amendment offered by the gentleman from New York [Mr. Stratton].

The amendment was rejected. . . .

Mr. [Neal] Smith of Iowa: Mr. Chairman, I have an amendment at the Clerk's desk which I offer at this time.

The Chairman: The Clerk will report the amendment.

Mr. [Robert J.] Dole [of Kansas]: Mr. Chairman, I have a preferential motion.

The Chairman: The motion is not in order because no action has been taken since the last identical motion.

The Clerk will report the amendment offered by the gentleman from Iowa.

Mr. Dole: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Dole: We just voted on the amendment of the gentleman from New York [Mr. Stratton] and it was defeated.

The Chairman: The amendment was defeated and did not prevail.

---

1. 108 Cong. Rec. 11359, 11360, 11369, 11370, 87th Cong. 2d Sess.

The Clerk will report the amendment offered by the gentleman from Iowa [Mr. Smith].

After Amendment of Bill

§ 14.6 Where a bill has been amended subsequent to the rejection of a motion to strike out the enacting clause, a second motion is in order and is debatable notwithstanding a limitation of debate on the bill.

On May 9, 1947,(2) during consideration of H.R. 2616, providing assistance to Greece and Turkey, Chairman Francis H. Case, of South Dakota, held that a motion to strike the enacting clause was in order and debatable, several amendments having been adopted since disposition of the previous motion to strike the enacting clause.

Mr. [Clare E.] Hoffman [of Michigan]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Hoffman moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. [Pete] Jarman [of Alabama]: Mr. Chairman, a point of order against the motion.

The Chairman: The gentleman will state it.

Mr. Jarman: Mr. Chairman, that motion has already been made and was voted down once.

The Chairman: There have been several amendments adopted on the bill, it has been changed since that motion was previously acted on. The Chair overrules the point of order.

Mr. [John M.] Vorys [of Ohio]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Vorys: Mr. Chairman, debate is limited on the bill by action of the committee.

The Chairman: The gentleman from Michigan has offered a preferential motion which is in order in spite of the agreement on closing debate.

Effect of Withdrawal of Prior Motion

§ 14.7 After withdrawal by unanimous consent of the first such motion, a second motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken out was held in order and not dilatory.

On May 3, 1949,(3) during consideration of H.R. 2032, the National Labor Relations Act of 1949, Chairman Jere Cooper, of Tennessee, indicated that a second motion to strike the enacting clause is in order and not dilatory where the

---

2. 93 Cong. Rec. 4974, 80th Cong. 1st Sess.

3. 95 Cong. Rec. 5521, 5522, 5531, 81st Cong. 1st Sess.

first such motion had been withdrawn.

Mr. [Eugene] Worley [of Texas]: Mr. Chairman, I offer a preferential motion.

The Chairman: The Clerk will report the motion of the gentleman from Texas.

The Clerk read as follows:

> Mr. Worley moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The Chairman: The gentleman from Texas is recognized for 5 minutes on his motion. . . .

Mr. Worley: . . . Mr. Chairman, I ask unanimous consent to withdraw my motion.

The Chairman: Is there objection to the request of the gentleman from Texas?

There was no objection. . . .

Mr. [Hale] Boggs of Louisiana: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Boggs of Louisiana moves that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

Mr. [John E.] Rankin [of Mississippi]: Mr. Chairman, I make a point of order that that motion has just been voted down.

The Chairman: The gentleman is mistaken. The previous motion was withdrawn by unanimous consent.

Mr. [Joseph W.] Martin [Jr.] of Massachusetts: Mr. Chairman, I make the point of order it is dilatory. Is the gentleman going to press his motion?

The Chairman: The Chair overrules the point of order.

On Another Day

§ 14.8 Parliamentarian's Note: A second motion to "strike the enacting clause" is in order on a subsequent legislative day, notwithstanding the fact that there has been no modification of the bill since the first preferential motion was rejected.

On May 6, 1950,[4] during consideration of H.R. 7786, the general appropriation bill of 1951, Chairman Jere Cooper, of Tennessee, ruled that a second motion to strike out the enacting clause was in order, the first having been made on a previous day.

The Chairman: The time of the gentleman from Texas has expired. All time on this amendment has expired.

Mr. [Hale] Boggs of Louisiana: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Boggs of Louisiana moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. [Albert A.] Gore [of Tennessee]: Mr. Chairman, I make a point of order against the motion on the ground that it is a dilatory motion.

---

[4] 96 Cong. Rec. 6571, 81st Cong. 2d Sess.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the further point of order against the motion that no amendment has been adopted since the last such motion was disposed of.

THE CHAIRMAN: The Chair will state that while it is true that no amendment has been adopted and there has been no alteration in the bill since the last motion to strike out the enacting clause was disposed of, nevertheless this is a different day.

The Chair is of the opinion that the point of order made by the gentleman from New York would not lie against the motion.

D. CONSIDERATION AND DEBATE

§ 15. Generally

This division takes up the general rules relating to consideration and debate in the Committee of the Whole.(5)

When the House issues an order for the consideration of a particular bill and the manner in which it is to be considered, it absolutely binds the Committee of the Whole because the Committee does not possess authority to modify such an order(6) or to set aside a rule of procedure prescribed by the House.(7) Consequently, the Committee of the Whole may not consider a different bill after the House has agreed to a motion to go into the Committee to consider a particular revenue or appropriation bill.(8) Neither the Chairman nor the Committee may entertain requests to alter such orders.(9)

In the rare instances when the House does not designate business to be considered in the Committee of the Whole, business may be taken up in regular order, or in such order as the Committee may determine.(10)

In the absence of a rule to the contrary, the practice governing debate in the House is followed in

---

5. See 5 Hinds' Precedents §§ 5203-5256 and 8 Cannon's Precedents §§ 2548-2595 for earlier rulings. See also Ch. 29, infra, for further discussion of particular rules on consideration and debate in the Committee of the Whole.
6. 4 Hinds' Precedents §§ 4712, 4713; 7 Cannon's Precedents § 786; and 8 Cannon's Precedents §§ 2321, 2322.
7. 4 Hinds' Precedents § 4713.
8. 4 Hinds' Precedents § 4734.
9. 8 Cannon's Precedents §§ 2550-2552.
10. Rule XXIII clause 4, *House Rules and Manual* § 869 (1979). See 4 Hinds' Precedents § 4729, for a discussion of the origin of this rule.

the Committee of the Whole.(11) Since 1841, general debate by a Member has been limited in the Committee to no more than one hour,(12) any portion of which may be yielded to another(13) who in turn may yield to a third with the consent of the Member originally holding the floor.(14) Of course, if the first Member retains control of the floor, but yields to a second Member for a question, it is the first Member who would subsequently yield to a third. On the other hand, where a bill is being considered under a typical special order providing that time be controlled by the chairman and ranking minority member of the committee reporting the bill, the first Member may yield a block of time to a second Member, in which case the second Member may yield to a third while remaining on his feet, and permission of the first Member is not necessary.

Following the close of general debate by order of the House any Member is allowed five minutes to explain any amendment he may offer after which the Member who first obtains the floor is allowed five minutes to oppose it.(15) A Member proposing an amendment may, by unanimous consent, offer an amendment to such amendment during the five minutes allotted him under the rule but may not thereby secure additional time for debate.(16) Following five minutes of debate on an amendment and five minutes in opposition, a Member may obtain five minutes for debate by offering the pro forma amendment "to strike the last word" where an actual amendment is not contemplated;(17) but a Member who has occupied five minutes on a pro forma amendment may not lengthen his time by making another pro forma amendment.(18)

Only the Chairman may recognize Members for debate.(19) When time for debate under the five-minute rule is limited in Committee

---

11. 8 Cannon's Precedents § 2553.

12. Note to Rule XXIII clause 5, *House Rules and Manual* § 870 (1979).

13. 8 Cannon's Precedents § 2553.

14. 8 Cannon's Precedents § 2553.

15. Rule XXIII clause 5, *House Rules and Manual* § 870 (1979).

16. 8 Cannon's Precedents § 2562.

17. Note to Rule XXIII clause 5, *House Rules and Manual* § 873 (1979); 5 Hinds' Precedents § 5778. See §§ 15.9, 15.10, infra, which relate to speaking twice on an amendment.

18. Note to Rule XXIII clause 5, *House Rules and Manual* § 873 (1979); 5 Hinds' Precedents § 5222; and 8 Cannon's Precedents § 2560.

19. 5 Hinds' Precedents § 5003.

of the Whole without provision for its control, the Chairman divides the time, where practicable, between those favoring and those opposing the proposition,(1) or among all Members indicating a desire to speak. Nonetheless, on one occasion, when no one claimed the floor in opposition after a speech in favor of an amendment under the five-minute rule, the Chairman recognized another Member favoring the amendment.(2) In recognizing for debate on an appeal in the Committee of the Whole the Chairman alternates between those favoring and those opposing.(3)

A Member recognized in the Committee of the Whole to debate an amendment under the five-minute rule may yield to another Member while remaining on his feet, but may not yield designated amounts of time to another Member.(4)

The Committee of the Whole by majority vote may close debate upon any section or paragraph or amendments thereto anytime after reading thereof has been completed and debate thereon under the five-minute rule has commenced. Although agreement to the motion to close debate does not preclude further amendment, it does preclude further debate on those amendments.(5)

The motion to close debate is not in order until debate has begun,(6) which means after one speech, however brief;(7) the motion may be made before expiration of the full five minutes.(8)

The House, as well as the Committee of the Whole, may close the five-minute debate after it has begun although it rarely exercises this right.(9)

Consideration of Unfinished Business

§ 15.1 Where the Committee of the Whole rises before the time for

---

(1) 8 Cannon's Precedents § 2558. See also § 16.6, infra.

(2) 8 Cannon's Precedents § 2557.

(3) 8 Cannon's Precedents § 3455. See also § 15.13, infra, relating to time and scope of debate on appeal.

(4) § 15.5, infra. See 5 Hinds' Precedents § 5035–5037.

(5) Rule XXIII clause 6, *House Rules and Manual* § 874 (1979).

(6) § 15.12, infra; note to Rule XXIII clause 6, *House Rules and Manual* § 874 (1979).

(7) 5 Hind's Precedents § 5226; 8 Cannon's Precedents § 2573.

(8) 8 Cannon's Precedents § 2573.

(9) Note to Rule XXIII clause 6, *House Rules and Manual* § 874 (1979); 5 Hinds' Precedents §§ 5229, 5231.

debate expires, a limitation of a certain number of minutes (rather than by the clock) having been imposed under the five-minute rule, debate continues when the Committees resume its deliberations.

On June 16, 1948,[10] during consideration of H.R. 6401, the Selective Service Act of 1948, Chairman Francis H. Case, of South Dakota, indicated that where time for debate has been fixed on an amendment in the Committee of the Whole and the Committee rises before the time expires, debate continues when the Committee resumes its deliberations.

Mr. [Walter G.] Andrews of New York: Mr. Chairman, in view of the fact that two or three Members who have time are not here, I move that the Committee do now rise.

The Chairman: The question is on the motion offered by the gentleman from New York [Mr. Andrews].

Mr. [George A.] Smathers [of Florida]: Mr. Chairman, I would like to be heard on that.

The Chairman: That is not a debatable motion. It is always within the discretion of the gentleman handling the bill to move that the Committee rise.

Mr. [Vito] Marcantonio [of New York]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Marcantonio: Mr. Chairman, under the arrangement entered into limiting debate on this amendment, will the Members who were scheduled to be recognized be recognized when the Committee resumes its deliberations?

The Chairman: They will be recognized, if the Committee should vote to rise, when the Committee meets again.

Mr. Andrews of New York: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Andrews of New York: My understanding is that all those gentlemen whose names are on the list will be recognized immediately tomorrow.

The Chairman: The statement of the gentleman from New York is correct.

§ 15.2 A question as to the future day when the Committee will continue the consideration of a bill is for the Speaker and the House to decide and not the Chairman of the Committee of the Whole.

On Apr. 26, 1948,[11] during consideration of H.R. 2245, to repeal the tax on oleomargarine, Chairman Leslie C. Arends, of Illinois, declined to rule on the time a particular bill would again be considered in the Committee of the Whole.

---

[10] 94 Cong. Rec. 8521, 80th Cong. 2d Sess.

[11] 94 Cong. Rec. 4873, 80th Cong. 2d Sess.

MR. AUGUST H. ANDRESEN [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. AUGUST H. ANDRESEN: Mr. Chairman, I understand that the Committee will rise at 4 o'clock. It is also my understanding of the rules that this Committee should meet tomorrow in order to have continuous consideration of the pending legislation.

I would like to have a ruling of the Chair as to whether or not the rules provide that a day may intervene so that this legislation may be taken up on Wednesday.

THE CHAIRMAN: The Chair may say that is a matter for the Speaker of the House and the House itself to determine. It is not something within the jurisdiction of the Chair to decide.

Debate on Point of Order

§ 15.3 Debate on a point of order raised in the Committee of the Whole is within the discretion of the Chairman and must be confined to the point of order.

On Apr. 13, 1951,[12] during consideration of S. 1, 1951 amendments to the Universal Military Training and Service Act, Chairman Jere Cooper, of Tennessee, stated the rule governing debate on a point of order raised in Committee of the Whole.

MR. [ANTONI N.] SADLAK [of Connecticut]: Mr. Chairman, I offer an amendment.

THE CHAIRMAN: The Clerk will report the amendment, but the Chair will state that all time for debate has been exhausted.

The Clerk read as follows:

> Amendment offered by Mr. Sadlak:
>
> Page 26, following the amendment offered by Mr. Walter, insert the following: "Any citizen of a foreign country who. . . ."

MR. [CARL] VINSON [of Georgia]: I make the point of order against the amendment that it is not germane to the pending bill.

THE CHAIRMAN: Does the gentleman from Connecticut desire to be heard on the point of order?

MR. SADLAK: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. SADLAK: Mr. Chairman, how much time will be allotted to me for that purpose?

THE CHAIRMAN: That is in the discretion of the Chair. The gentleman's argument must be confined to the point of order.

Yielding in Debate by Floor Managers

§ 15.4 Where general debate on a bill is under control of the chairman and ranking minority member of a committee, they may yield

---

[12] 97 CONG. REC. 3909, 3910, 82d Cong. 1st Sess.

as many times as they desire to whom they desire.

On July 11, 1946,(13) during consideration of Senate Joint Resolution 138, the British loan bill, Chairman William M. Whittington, of Mississippi, made reference to the power to yield where general debate on a bill is under the control of the chairman and ranking minority member of a committee.

Miss [Jessie] Sumner of Illinois: Mr. Chairman, a parliamentary inquiry?

The Chairman: The gentlewoman will state it.

Miss Sumner of Illinois: The gentleman from Arkansas [Mr. Hays] and the gentleman from Texas [Mr. Patman] have spoken two or three times on this bill during general debate. Is that permissible under the rules of the House?

The Chairman: The time is within the control of the chairman and the ranking minority member of the committee.

Miss Sumner of Illinois: May the same person speak two or three times in general debate on the same bill?

The Chairman: General debate on this bill has been fixed at 16 hours, the time equally divided between the chairman and the ranking minority member of the committee. They may yield, once, twice, or as many times as they desire to whom they desire.

Yielding by Member Recognized to Debate

§ 15.5 A Member recognized in the Committee of the Whole to debate an amendment may yield to another Member if he so desires while remaining on his feet.

On June 22, 1945,(14) during consideration of House Joint Resolution 101, extending the Price Control and Stabilization Act, Chairman Jere Cooper, of Tennessee, stated the rule authorizing a Member recognized in Committee to debate an amendment to yield to another Member. At the time, the Committee was operating under an agreement limiting debate on amendments to one hour.(15)

The Chairman: The Chair recognizes the gentleman from Indiana [Mr. Harness].

Mr. [Forest A.] Harness of Indiana: Mr. Chairman, I am in favor of this amendment because I believe it will force a more common-sense administration of this law. The distinguished gentleman from Michigan [Mr. Crawford] has just made a most forceful argument in favor of the amendment, and I yield to him for his further observations.

Mr. [Fred L.] Crawford: Continuing, Mr. Vinson said:

---

13. 92 Cong. Rec. 8694, 79th Cong. 2d Sess.

14. 91 Cong. Rec. 6548, 79th Cong. 1st Sess.

15. *Id.* at p. 6543.

That condition has been met for war production, and that condition will be met for reconversion peace production.

Mr. [Wright] Patman [of Texas]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Patman: Mr. Chairman, I am not objecting to the gentleman's talking, but I want to know what the policy will be. Can one Member yield another Member this time?

The Chairman: The gentleman from Indiana [Mr. Harness] was recognized and he yielded to the gentleman from Michigan [Mr. Crawford], which is certainly permissible.

Mr. Patman: That is all right with me, Mr. Chairman, but I just wanted to know what the policy is.

The Chairman: Any Member can yield to another Member, or decline to yield, as he desires.

Parliamentarian's Note: Mr. Crawford had consumed his allotted time for debate; when Mr. Harness was recognized immediately thereafter, he yielded to Mr. Crawford to complete his remarks. Mr. Harness stood while Mr. Crawford continued.

Yielding by Member Recognized for Pro Forma Amendment

§ 15.6 A Member recognized to strike out the last word under the five-minute rule may yield to another Member.

On Mar. 21, 1960,[16] during consideration of amendments under the five-minute rule, Chairman Francis E. Walter, of Pennsylvania, made reference to the authority of a Member recognized to strike out the last word to yield to another Member.

The Chairman: The time of the gentleman from New York has expired.

Mr. [Emanuel] Celler [of New York]: Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

Mr. [Clare E.] Hoffman of Michigan: I object, Mr. Chairman.

Mr. [Sidney R.] Yates [of Illinois]: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I yield to the gentleman from New York [Mr. Celler].

Mr. Celler: I thank the gentleman.

Mr. Hoffman of Michigan: Just a minute. I make a point of order on this.

Mr. Celler: Mr. Chairman, deprivation of the State's ballot is wrong.

Mr. Yates: Mr. Chairman, I am entitled to yield to the gentleman from New York.

The Chairman: The gentleman from Illinois was recognized, and he yielded to the gentleman from New York. The gentleman from New York is continuing in order.

---

[16] 106 Cong. Rec. 6162, 86th Cong. 2d Sess.

Extension of Time Under Hour Rule

§ 15.7 Where general debate in the Committee of the Whole is proceeding under the hour rule, a request that a Member's hour be extended is not in order.

On Mar. 24, 1947,(17) during consideration under the hour rule of H.R. 2700, providing appropriations for the Department of Labor and the Federal Security Agency, Chairman Clifford R. Hope, of Kansas, declined to permit extension of time.

> Mr. [John J.] Rooney [of New York]: Mr. Chairman, I yield the balance of my time to the gentlewoman from New Jersey [Mrs. Norton].
>
> Mrs. [Mary T.] Norton: Mr. Chairman, I ask unanimous consent to proceed for 10 additional minutes.
>
> The Chairman: The Chair regrets that the request is not in order at this time, as the time is under the control of the gentleman from New York and is restricted under the rules of the House.
>
> Mrs. Norton: Is it not possible to get that additional time by unanimous consent? I have known it to be done in many, many other cases.
>
> The Chairman: That would be true under the 5-minute rule, but we are proceeding now in general debate, and under the rules of the House that is not permitted.

Speaking More Than Once in General Debate

§ 15.8 Members may speak in general debate on a bill as many times as they are yielded to by those in control of the debate.

On July 11, 1946,(18) during consideration of Senate Joint Resolution 138, the British loan bill, Chairman William M. Whittington, of Mississippi, indicated that Members may speak as frequently in debate as they are yielded to by those controlling the floor.

> Miss [Jessie] Sumner of Illinois: May the same person speak two or three times in general debate on the same bill?
>
> The Chairman: General debate on this bill has been fixed at 16 hours, the time equally divided between the chairman and the ranking minority member of the committee. They may yield, once, twice, or as many times as they desire to whom they desire.

Speaking More Than Once on Amendment

§ 15.9 While a Member may not speak twice on the same amendment, he may speak in opposition to a pending amendment and subsequently offer a pro forma amendment and debate that.

---

17. 93 Cong. Rec. 2476, 80th Cong. 1st Sess.

18. 92 Cong. Rec. 8694, 79th Cong. 2d Sess.

On June 30, 1955,(19) during consideration of S. 2090, to amend the Mutual Security Act of 1954, Chairman Jere Cooper, of Tennessee, stated that a Member may in effect speak twice on the same amendment by opposing a pending amendment and subsequently offering a pro forma amendment.

Mr. [James P.] Richards [of South Carolina]: Mr. Chairman, I move to strike out the last word. . . .

Mr. [H. R.] Gross [of Iowa]: Mr. Chairman, will the gentleman yield?

Mr. Richards: I cannot yield just now.

Mr. Gross: Mr. Chairman, I make a point of order. Is the gentleman from South Carolina speaking twice on this? The gentleman has offered an amendment to the amendment.

Mr. Richards: I will yield to the gentleman in just a moment. I have a few more minutes of time, and I would like to get an agreement on time.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto, close in 10 minutes.

The Chairman: Is there objection to the request of the gentleman from South Carolina?

Mr. Gross: Mr. Chairman, reserving the right to object, do I understand that the gentleman from South Carolina has offered an amendment to this amendment; and, if so, has it been read?

The Chairman: The gentleman from South Carolina offered an amendment to the amendment by moving to strike out the last word, which is a very common practice in the House.

Mr. Gross: I thought the gentleman had moved to strike out the last word on a previous occasion.

The Chairman: No, the gentleman from South Carolina rose in opposition to the pending amendment and now has the floor on a pro forma amendment, which is entirely in order.

§ 15.10 Although a Member may not speak twice on the same amendment he may rise in opposition to a pro forma amendment after debating a substantive amendment, and accomplish that result.

On July 20, 1951,(20) during consideration of H.R. 3871, amendments to the Defense Production Act of 1950, Chairman Wilbur D. Mills, of Arkansas, stated that a Member may in effect speak twice on the same amendment by opposing a pro forma amendment.

Mr. [Jesse P.] Wolcott [of Michigan]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Wolcott: Mr. Chairman, is it in order for a Member to talk twice on the same amendment?

---

19. 101 Cong. Rec. 9614, 84th Cong. 1st Sess.

20. 97 Cong. Rec. 8566, 82d Cong. 1st Sess.

THE CHAIRMAN: A Member may rise in opposition to a pro forma amendment and accomplish that result, if he desires to do so.

Time Limitation on Pro Forma Amendment

§ 15.11 A Member recognized for five minutes on a pro forma amendment may not automatically extend his time by offering a substantive amendment, because the Chair seeks to alternate recognition and is constrained by other factors in his recognition.

On July 28, 1965,[1] during consideration of H.R. 77, repealing section 14(b) of the National Labor Relations Act, Chairman Leo W. O'Brien, of New York, refused to entertain an amendment sought to be offered by a Member who was speaking on a pro forma amendment.

MR. [WILLIAM H.] AYRES [of Ohio]: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I ask unanimous consent to proceed for an additional 5 minutes.

THE CHAIRMAN: Is there objection to the request of the gentleman from Ohio?

There was no objection.

MR. AYRES: Mr. Chairman, I am most gratified at the assurance of Chairman Powell that a complete committee investigation of National Labor Relations Board election procedures will be held. Mr. Powell's House floor statement to me, just prior to a vote on the repeal of section 14(b) of the Taft-Hartley Act, means that we can now delve into a part of labor relations that could have great impact on the establishment of a good climate for labor-industry relations. . . .

In order to have a cooling-off period, Mr. Chairman, I offer an amendment.

THE CHAIRMAN: The Chair has not recognized the gentleman for that purpose.

Does any other Member offer an amendment at this time?

MRS. [EDITH S.] GREEN of Oregon: Mr. Chairman, I should like to offer an amendment.

THE CHAIRMAN: The Chair recognizes the gentlewoman from Oregon [Mrs. Green].

Timeliness of Motion to Close Debate

§ 15.12 A motion to close debate on an amendment in the Committee of the Whole under the five-minute rule is not in order until there has been some debate on such amendment.

On Mar. 25, 1947,[2] during consideration of H.R. 2700, the Department of Labor and the Federal Security Agency appropriation bill of 1948, Chairman Clifford R. Hope, of Kansas, ruled on the timeliness of a motion to close debate on an amendment.

---

[1] 111 CONG. REC. 18631, 89th Cong. 1st Sess.

[2] 93 CONG. REC. 2557, 80th Cong. 1st Sess.

> MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Rooney: On page 2, line 6, strike out "$819,500" and insert "$1,190,000."
>
> MR. H. CARL ANDERSEN [of Minnesota]: Mr. Chairman I ask unanimous consent that debate on this amendment close in 10 minutes.
>
> MR. ROONEY: I object, Mr. Chairman.
>
> MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, I move that all debate on the pending amendment and all amendments thereto close in 10 minutes.
>
> MR. [JERE] COOPER [of Tennessee]: Mr. Chairman, I make the point of order that the motion is not in order now, until some debate is had on the amendment.
>
> THE CHAIRMAN: The point of order is well taken. The motion is not in order at this time, since there has been no debate on the amendment.

Debate on Appeal of Chair's Ruling

§ 15.13 An appeal in the Committee of the Whole is debatable under the five-minute rule and such debate is confined to the appeal.

On Feb. 22, 1950, Calendar Wednesday,[3] during consideration of H.R. 4453, the Federal Fair Employment Practice Act, Chairman Francis E. Walter, of Pennsylvania, ruled on the time and scope of debate on an appeal in the Committee of the Whole. The Member in control of time, Mr. Adam C. Powell, of New York, had yielded one minute to Mr. Howard W. Smith, of Virginia, for purposes of debate only. Mr. Smith, however, attempted to offer a motion to rise during that time. Following Mr. Powell's timely point of order, which the Chair sustained, Mr. Smith then sought recognition to offer the motion to rise on his own time, but the Chair advised him that he had no time, as time was in the control of Mr. Powell and Mr. Samuel K. McConnell, Jr., of Pennsylvania. After Mr. Hugo S. Sims, Jr., of South Carolina, had been yielded four minutes of time for debate, Mr. Sims then in turn yielded to Mr. Smith, who again tried to offer a motion to rise. The following proceedings then took place:

> THE CHAIRMAN: The gentleman from South Carolina was yielded 4 minutes time for debate. He in turn yielded to

---

[3] 96 CONG. REC. 2178, 2179, 81st Cong. 2d Sess.

the gentleman from Virginia but he cannot yield to the gentleman from Virginia for the purpose of offering that motion (i.e., the motion that the Committee rise).

Mr. Smith of Virginia: Mr. Chairman, I respectfully appeal from the decision of the Chair.

The Chairman: The question is, Shall the decision of the Chair be sustained?

Mr. [John E.] **Rankin** [of Mississippi]: Mr. Chairman, I make a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Rankin: Mr. Chairman, is that appeal debatable?

The Chairman: Under the 5-minute rule; yes.

Mr. Rankin: Mr. Chairman, I would like to be heard.

The Chairman: The gentleman is recognized. The Chair will say that the discussion is now on the appeal.

Mr. Rankin: Mr. Chairman, this is the first time that I ever knew Members of the House to have to edge in in this way to be recognized for a motion for the Committee to rise.

In my opinion that motion is privileged, and any Member has a right to make it at any time.

I do not propose to discuss this monstrosity at the present time. I will do that under the 5-minute rule. But I secured this time to support the appeal of the gentleman from Virginia (Mr. Smith).

In the first place, we are going to be here all night, if this goes on.

I am sure that Joe Stalin heard that applause, because you are driving through here a piece of communistic legislation that Stalin promulgated in 1920, and you could not pass it in a single county in the United States by a popular vote, as was shown in California.

Mr. [Vito] **Marcantonio** [of New York]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Marcantonio: I make the point of order that the gentleman from Mississippi must direct his remarks to the question of the appeal from the ruling of the Chair.

The Chairman: The gentleman is correct. . . .

The question is, Shall the decision of the Chair be the judgment of the Committee?

The question was taken; and the Chair being in doubt, the Committee divided and there were—ayes 123, noes, 77.

Mr. Smith of Virginia: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Powell and Mr. Smith of Virginia.

The Committee again divided; and the tellers reported that there were—ayes 148, noes 83.

So the decision of the Chair stands as the judgment of the Committee.

Debate by Speaker

§ 15.14 The Speaker sometimes takes the floor in debate in the Committee of the Whole.

As an example, on June 30,

1939,(4) during consideration of House Joint Resolution 306, the Neutrality Act of 1939, Speaker William B. Bankhead, of Alabama, took the floor in debate in the Committee of the Whole:

> MR. BANKHEAD: Mr. Chairman, I have listened with very great interest to the remarks just made by the ranking minority member of the Committee on Foreign Affairs, in which he seemed to conclude his argument with the proposition that his opposition to the pending bill would keep the United States of America out of war. . . .
>
> After due consideration, one of the major reasons that I am supporting the proposed bill in contradiction to the conclusions of the gentleman from New York is that I honestly and fervently believe that in adopting this law we will be making a great gesture to keep the United States of America out of any world war. . . .
>
> I want to say to you, after a very careful and, I trust, prudent observation and investigation of this whole question of neutrality, that we made a supreme and colossal mistake in policy, in national policy, if you please, when we departed a few years ago from the time-honored and time-tested constitutional principle of leaving the management of our foreign and diplomatic affairs in the hands of the President of the United States and of the State Department of this country. [Applause.] It had been lodged there securely and definitely for 145 years. Every incursion that we have attempted to make by these various neutrality laws in the last 3 or 4 years does but serve to teach us that it is absolutely impossible for the genius even of the Congress of the United States to enact a statute that contains real neutrality. . . .
>
> It is my earnest belief, and I assert it, after undertaking to give to this proposition the sincerest and most earnest consideration of which I am capable, that if we pass this law tonight and lift this inhibition against the shipment of arms and ammunition to those who need them—who need them, as the gentleman from Texas pointed out—to defend their liberties, to defend their homes, and to defend their principles of self-government and personal liberty—and this is not a fight for the munitions makers, although that argument has been made—I feel that the safest and surest way for us to proceed is to remove the shackles and impediments now resting on the President of the United States and the Secretary of State and give them absolute freedom of action, as the founders of our Constitution conceived they should have, to govern from day to day and from hour to hour the incidents that may occur in this storm-tossed and tempestuous world.

§ 15.15 The Speaker offered an amendment to a bill in the Committee of the Whole and participated in debate thereon.

---

4. 84 CONG. REC. 8509, 76th Cong. 1st Sess.

On Apr. 27, 1956,(5) during consideration of H.R. 10660, the Federal Highway and Revenue Acts of 1956, Speaker Sam Rayburn, of Texas, offered and debated an amendment.

Mr. Rayburn: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Rayburn:
>
> On page 14, line 20, strike out "Committee on Public Works of the."
>
> On line 23, strike out "on Public Works."
>
> On line 24, after the word "Representatives", insert "to which referred.". . .
>
> On page 30, strike out lines 12 through 18 and insert "furnish to the Congress such information, books, records, correspondence, memoranda, papers, and documents which are in their possession relating to the construction of the Interstate System. . . ."

Mr. Rayburn: Mr. Chairman, this amendment has been very carefully drawn—I hope. Its purpose is not to rob anybody of any authority which they think they should have. But a short while ago there began to grow up in the House the practice of including provisions in bills saying that the departments should report to committees of Congress. The only thing this amendment does is to provide that they shall report to the Congress. Then whoever may be Speaker of the House will refer them to the proper place. I just feel that it would be a little more dignified if these matters were referred to 435 Members instead of 25 or 30. . . .

Mr. Rayburn: I might say also that before I offered this amendment I conferred with the gentleman from Massachusetts [Mr. Martin], the ex-Speaker, and it is agreeable to him.

Mr. [Jere] Cooper [of Tennessee]: Mr. Chairman, will the gentleman yield?

Mr. Rayburn: I yield.

Mr. Cooper: I merely want to point out that in title II of the pending bill it is provided that reports are to be made to the Congress.

The Chairman: The question is on the amendment offered by the gentleman from Texas [Mr. Rayburn].

The amendment was agreed to.

Use of Exhibits in Debate

§ 15.16 Where objection is made to the display of exhibits in debate in the Committee of the Whole, the Chair puts the question to the Committee for its decision.

On Aug. 5, 1949,(6) during consideration of H.R. 1758, amending the Natural Gas Act, Chairman Howard W. Smith, of Virginia, put to the Committee of the Whole a question regarding display

---

5. 102 Cong. Rec. 7212, 84th Cong. 2d Sess. See 101 Cong. Rec. 3204, 3205, 84th Cong. 1st Sess., Mar. 18, 1955, in which Speaker Sam Rayburn [Tex.], offered an amendment proposing an additional House building.

6. 95 Cong. Rec. 10859, 81st Cong. 1st Sess.

of a chart after objection had been raised to such display.

Mr. [Oren] Harris [of Arkansas]: Mr. Chairman, I move to strike out the last word, and ask unanimous consent to proceed for five additional minutes, in order that I may help to clear up the situation here about which so many people have come to me and asked, and in order that I may show you on a chart just what this legislation will do. . . .

Mr. [Eugene D.] O'Sullivan [of Nebraska]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. O'Sullivan: Mr. Chairman, is it in order for an exhibit to be presented to the Committee of the Whole or to the House of Representatives? As I read the rules it is not in order to do so, unless the permission of the Committee of the Whole or of the House is first obtained.

The Chairman: If the gentleman from Nebraska objects to the use of the exhibit, the Chair will put the question to the Committee of the Whole. Does the gentleman object?

Mr. O'Sullivan: I object, Mr. Chairman.

The Chairman: The question is: Shall the use of the exhibit be permitted?

The question was agreed to.

§ 16. Time Limitations

Where five-minute debate has been limited to a certain number of minutes, and not to a time certain, the time consumed by reading amendments and quorum calls is not taken from that remaining for debate; but where debate has been limited to a time certain, time used on extraneous motions, quorum calls or votes comes out of the time remaining under the limitation and reduces the time that may be allocated to Members wishing to speak.(7)

Computation of Time Limitations

§ 16.1 Where the Committee of the Whole fixes the time for debate on an amendment at 20 minutes, such time is counted in minutes of debate and not in minutes by the clock.

On Feb. 8, 1950,(8) during consideration of H.R. 2945, to adjust postal rates, Chairman Chet

---

7. §§ 16.2–16.6, infra. The Chair has stated that, where time for debate on an amendment is limited to a time certain, the time permitted for debate on a preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken comes out of the time remaining under such limitation. See § 13.6, supra.

8. 96 Cong. Rec. 1690, 1693, 81st Cong. 2d Sess.

Holifield, of California, indicated that the time period fixed for debate meant passage of time of debate as distinguished from passage of time on the clock.

Mr. [Thomas J.] Murray of Tennessee: Mr. Chairman, I move that all debate on the committee substitute and all amendments thereto close in 20 minutes.

The Chairman: The question is on the motion.

The question was taken; and on a division (demanded by Mr. Sutton) there were—ayes 99, noes 76. . . .

Mr. Murray of Tennessee: Mr. Chairman, how much more time remains?

The Chairman: There are 6 minutes remaining.

Mr. [Donald W.] Nicholson [of Massachusetts]: Mr. Chairman, a point of order. I raise the point of order that 20 minutes ago we voted to close debate. The 20 minutes have gone.

The Chairman: The Chair advises the gentleman that the 20 minutes for debate have not been used. The Chair will watch the matter closely.

§ 16.2 Where time for debate is limited without reference to a time certain, the time consumed by the reading of amendments is not taken from that remaining for debate.

On Oct. 3, 1969,[9] during consideration of H.R. 14000, the military procurement authorization for fiscal year 1970, Chairman Daniel D. Rostenkowski, of Illinois, stated that the time used to read amendments is not charged against a limitation of time in minutes.

Mr. [L. Mendel] Rivers [of South Carolina]: Mr. Chairman, I move that all debate on title V and all amendments thereto close in 15 minutes.

The Chairman: The question is on the motion offered by the gentleman from South Carolina.

The motion was agreed to.

The Chairman: The Chair recognizes the gentleman from Indiana (Mr. Dennis).

Mr. [David W.] Dennis: Mr. Chairman, I will simply say that I support my Democratic colleague from Indiana. This is one amendment I am going to vote for. I cannot see any reason why we should not study profits. That is all this asks us to do. We are not accusing anybody of anything. We are studying profits, by the use of a governmental organization to conduct that study, and I think the people we represent, who pay the taxes, are for that, and I am for it.

Mr. [John B.] Anderson of Illinois: Mr. Chairman, I offer a perfecting amendment to title V.

The Clerk read as follows: . . .

Mr. [Harold R.] Collier [of Illinois] (during the reading): Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

---

[9] 115 Cong. Rec. 28459, 28460, 91st Cong. 1st Sess.

MR. COLLIER: Mr. Chairman, I would like to know whether the reading of this amendment is charged against the limited time allotment.

THE CHAIRMAN: It is not charged against the limited time.

§ 16.3 Time consumed by a quorum call does not come out of a limitation of time for debate on a pending amendment and all amendments thereto where that limitation specifies minutes of debate rather than a time certain by the clock.

On Nov. 9, 1971,(10) during consideration of H.R. 10729, to amend the Federal Insecticide, Fungicide, and Rodenticide Act, Chairman William L. Hungate, of Missouri, indicated that time consumed on a quorum call would not be charged against a time limitation specifying minutes of debate.

MR. [WILLIAM R.] POAGE [of Texas]: Mr. Chairman, I move that all debate on the Dow amendment in the nature of a substitute, the Kyl substitute amendment, and all amendments thereto close in 20 minutes.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Texas (Mr. Poage).

The motion was agreed to.

MR. [JOHN G.] DOW [of New York]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. DOW: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. DOW: Mr. Chairman, if there is a rollcall will this come out of the time limitation?

THE CHAIRMAN: The Chair will state in response to the inquiry of the gentleman from New York (Mr. Dow) that the motion that was agreed to, that was offered by the gentleman from Texas (Mr. Poage) was for 20 minutes of debate, and the Chair will advise the gentleman from New York that there will be 20 minutes allotted for debate.

§ 16.4 Where the Committee of the Whole agrees to a unanimous-consent request limiting debate on an amendment to a certain number of minutes, the time consumed in two five-minute speeches on a motion to rise and report a bill with the recommendation that the enacting clause be stricken out is not taken from the time fixed for debate on the previously offered amendment.

On Oct. 17, 1945,(11) during consideration of H.R. 3615, the airport bill, Chairman Graham A. Barden, of North Carolina, stated that time

---

10. 117 CONG. REC. 40060, 40061, 92d Cong. 1st Sess.

11. 91 CONG. REC. 9751, 79th Cong. 1st Sess.

consumed on the motion to rise and report a bill with the recommendation that the enacting clause be stricken out is not taken from the time fixed for debate on an amendment.

MR. [ALFRED L.] BULWINKLE [of North Carolina]: Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

THE CHAIRMAN: Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Hoffman moves that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MCCORMACK: My understanding is that on the motion offered by the gentleman from Michigan there may be 10 minutes of debate, 5 minutes for and 5 minutes against, and that if the motion is defeated the 10 minutes of debate on the amendment still remain to be used. Is that correct?

THE CHAIRMAN: The gentleman is correct.

Dividing Debate Time

§ 16.5 Where the Committee of the Whole has fixed the time for debate on pending amendments, the Chair notes the names of the Members seeking recognition and divides the time equally between them.

On Aug. 18, 1949,(12) during consideration of H.R. 5895, the Mutual Defense Assistance Act of 1949, Chairman Wilbur D. Mills, of Arkansas, noted the names of Members seeking recognition and divided the time equally among them after the Committee of the Whole fixed the time for debate on pending amendments.

MR. [JOHN] KEE [of West Virginia]: Mr. Chairman, I ask unanimous consent that all debate on the pending amendments and all amendments thereto close in 1 hour.

THE CHAIRMAN: Is there objection to the request of the gentleman from West Virginia?

There was no objection. . . .

MR. [EARL] WILSON of Indiana: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. WILSON of Indiana: There were a certain number of us on our feet when the unanimous-consent request was propounded. After the time was limited,

---

12. 95 CONG. REC. 11760, 81st Cong. 1st Sess.

about twice as many people got on their feet to be recognized.

The Chairman: The Chair is endeavoring to ascertain those Members who desire to speak, and has no disposition to violate any rights of freedom of speech.

Mr. Wilson of Indiana: Further pressing my point of order, is it in order after the time is limited for others to get the time that we have reserved for ourselves? I would like to object under the present situation.

The Chairman: Permit the Chair to answer the gentleman. If the gentleman from Indiana will ascertain and indicate to the Chair the names of the Members who were not standing at the time the unanimous-consent request was agreed to, the gentleman will render a great service to the Chair in determining how to answer the gentleman.

Mr. [Robert F.] Rich [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Rich: That is not the duty of the gentleman from Indiana. That is the duty of the Clerk.

The Chairman: The gentleman from Pennsylvania and the Chair both understand that, but apparently all Members do not. The Chair is endeavoring to do the best he can to ascertain those who desire to speak under this limitation of time. Now permit the Chair to ascertain that.

Mr. [Clare E.] Hoffman of Michigan: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Hoffman of Michigan: Will the Chair, with the assistance of the Clerk, advise me how many Members have asked for time, and how much time each Member will be allotted?

The Chairman: Each of the Members whose names appear on the list will be recognized for 2 minutes, there being 30 Members on their feet at the time and debate having been limited to 1 hour.

§ 16.6 Where debate on a bill and all amendments thereto is limited to a time certain, the Chair may in his discretion choose to disregard the five-minute rule and divide the available time equally among Members wishing to offer an amendment and those opposed thereto.

On May 6, 1970,(13) during consideration of H.R. 17123, the military procurement authorization for fiscal year 1971, Chairman Daniel D. Rostenkowski, of Illinois, divided the time equally among Members wishing to offer amendments and those opposed to the amendments, debate having been limited to a time certain.

Mr. [L. Mendel] Rivers [of South Carolina]: Mr. Chairman, I move that all debate on the bill and all amendments to the bill close at 7 o'clock.

---

13. 116 Cong. Rec. 14465, 14466, 91st Cong. 2d Sess.

The Chairman: The question is on the motion offered by the gentleman from South Carolina.

The motion was agreed to.

Mr. [Glenn M.] Anderson of California: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Anderson of California:
>
> On page 2, preceding line 20, insert the following: Change the period to a semicolon and add the following: "and *Provided further*, that the funds authorized herein for the construction and conversion of naval vessels shall be equally distributed between the Atlantic, Pacific, and Gulf Coast shipyards unless the President determines that another distribution will maintain shipyards in each of the areas adequate to meet the requirements of national defense."

The Chairman: The gentleman from California is recognized for 5 minutes in support of the amendment.

Mr. [Samuel S.] Stratton [of New York]: Mr. Chairman, will the gentleman yield to me for a parliamentary inquiry?

Mr. Anderson of California: Yes; if it is a parliamentary inquiry.

Mr. Stratton: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state his parliamentary inquiry.

Mr. Stratton: Under the limitation of debate imposed by the House, a moment ago, is there any restriction on those Members who will be permitted to speak on amendments, either for or against, between now and 7 o'clock?

The Chairman: The Chair will endeavor to divide the time equally among the proponents and the opponents of those who have amendments.

Mr. Stratton: I thank the Chair.

The Chairman: The gentleman from California is recognized.

Effect of Expiration of Time

§ 16.7 Where the Committee of the Whole has agreed to close debate on a title and all amendments thereto at a time certain (i.e., 8:20 p.m.) the Chair attempts to divide the time equitably among those Members desiring recognition; but if all available time is consumed, it may not be possible to recognize each Member on the list and their right to speak may be lost.

On Oct. 7, 1965,(14) during debate on S. 2084, the Highway Beautification Act of 1965, Chairman Phillip M. Landrum, of Georgia, stated that the right of a Member to speak was cut off when all time had been consumed by the first speaker.

> Mr. [John C.] Kluczynski [of Illinois]: Mr. Chairman, I move that all debate on title I and all amendments thereto close at 8:20. . . .
>
> The Chairman: The question is on the motion offered by the gentleman from Illinois.
>
> The question was taken; and on a

---

14. 111 Cong. Rec. 26305, 26306, 89th Cong. 1st Sess.

division (demanded by Mr. Gerald R. Ford) there were—ayes 121, noes 84.

So the motion was agreed to.

The Chairman: The Chair recognizes the gentleman from Florida [Mr. Cramer].

Mr. [William C.] Cramer: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Cramer: On page 17, after line 19, insert the following new subsection: . . .

The Chairman: The time of the gentleman from Florida has expired.

The question is on the amendment offered by the gentleman from Florida.

The question was taken; and on a division (demanded by Mr. Cramer) there were—ayes 73, noes 127.

Mr. Gerald R. Ford [of Michigan]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Wright and Mr. Gerald R. Ford.

The Committee again divided, and the tellers reported that there were—ayes 83, noes 142.

So the amendment was rejected.

Mr. [Thomas M.] Pelly [of Washington]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state the parliamentary inquiry.

Mr. Pelly: Mr. Chairman, have I and those of us who are on our feet entitled to 10 seconds lost that time to explain our amendments?

The Chairman: No, the gentleman is not correct in stating that Members were entitled to 10 seconds. Before the first speaker in behalf of the amendment had concluded, all time had expired. So the gentleman is not entitled to 10 seconds.

§ 16.8 The Chair stated in response to a parliamentary inquiry that where all debate on an amendment and all amendments thereto has been limited to a time certain (i.e., 5 p.m. that day), and the Committee of the Whole rises before that time without having completed action on the amendments, no time would be considered as remaining when the Committee, on a later day, again resumes consideration of the amendments.

On May 6, 1970,(15) during debate on H.R. 17123, the military procurement authorization for fiscal year 1971, Chairman Daniel D. Rostenkowski, of Illinois, indicated that no time would remain for debate on a subsequent day if the Committee rose before the hour designated (5 o'clock) for the closing of debate.

Mr. [Robert L.] Leggett [of California]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Leggett: Mr. Chairman, considering the fact that a time limitation has now been set in relation to today at 5 o'clock, does the time of the debate

---

15. 116 Cong. Rec. 14452, 91st Cong. 2d Sess.

on the motion that we have already heard, come out of the time on the amendments?

The Chairman: The time will come out of the time of those who are participating in debate.

Mr. Leggett: Mr. Chairman, a further parliamentary inquiry. If we chose to rise right now and come back tomorrow, then would there be any time limitation on debate?

The Chairman: There would be no further debate.

The time was set at 5 o'clock.

The question is on the motion offered by the gentleman from Massachusetts (Mr. O'Neill).

The motion was rejected.

§ 16.9 Where all time for debate on a portion of a bill has expired under an agreement closing debate at a specified time, the Chair still recognizes Members to offer amendments, but they are voted on without debate.

On Oct. 7, 1965,(16) during consideration of S. 2084, the Highway Beautification Act of 1965, Chairman Phillip M. Landrum, of Georgia, stated that, following expiration of time under an agreement closing debate at a specified time, he would recognize Members to offer amendments but would not permit debate.

Mr. [John C.] Kluczynski [of Illinois]: Mr. Chairman, I move that all debate on title I and all amendments thereto close at 8:20. . . .

The Chairman: The question is on the motion offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. Gerald R. Ford) there were—ayes 121, noes 84.

So the motion was agreed to.

The Chairman: The Chair recognizes the gentleman from Florida [Mr. Cramer].

Mr. [William C.] Cramer: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Cramer: On page 17, after line 19, insert the following new subsection: . . .

The Chairman: The time of the gentleman from Florida has expired.

The question is on the amendment offered by the gentleman from Florida.

The question was taken; and on a division (demanded by Mr. Cramer) ther were—ayes 73, noes 127.

Mr. Gerald R. Ford [of Michigan]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Wright and Mr. Gerald R. Ford.

The Committee again divided, and the tellers reported that there were—ayes 83, noes 142.

So the amendment was rejected.

Mr. [Thomas M.] Pelly [of Washington]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state the parliamentary inquiry.

Mr. Pelly: Mr. Chairman, have I and those of us who are on our feet

---

16. 111 Cong. Rec. 26305, 26306, 89th Cong. 1st Sess.

entitled to 10 seconds lost that time to explain our amendments?

THE CHAIRMAN: No, the gentleman is not correct in stating that Members were entitled to 10 seconds. Before the first speaker in behalf of the amendment had concluded, all time had expired. So the gentleman is not entitled to 10 seconds.

MR. [RICHARD H.] ICHORD [of Missouri]: Mr. Chairman, a further parliamentary inquiry.

THE CHAIRMAN: The gentleman will state the parliamentary inquiry.

MR. [EDMOND] EDMONDSON [of Oklahoma]: Does that apply to Members who have amendments at the desk and want to offer amendments?

THE CHAIRMAN: Members can offer amendments. The amendment will be read by the Clerk and the amendment will be voted upon. But there will be no debate on the amendment.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state the parliamentary inquiry.

MR. HALLECK: I understood the limitation of time was for 10 minutes rather than for a fixed time.

THE CHAIRMAN: The gentleman from Indiana is not correct in his understanding. The motion to close debate was that debate close at 8:20 p.m.

§ 17. Calling Members to Order

The Chairman directs the Committee of the Whole to rise and report to the House when objections have been made under Rule XIV clause 4,(17) which relates to calling a Member to order for transgressing the rules of the House, or Rule XIV clause 5,(18) which relates to calling a Member to order for words spoken in debate.

Seating of Member Called to Order

§ 17.1 A Member called to order in the Committee of the Whole because of words spoken in debate must take his seat.

On Mar. 26, 1965,(19) during consideration of H.R. 2362, the Elementary and Secondary Education Act of 1965, Chairman Richard Bolling, of Missouri, stated that a Member called to order because of words spoken in debate in the Com-

---

17. *House Rules and Manual* § 760 (1979); 2 Hinds' Precedents § 1653. See also Ch. 29 §§ 48–52, infra.

18. *House Rules and Manual* § 761 (1979); § 17.3, infra; 2 Hinds' Precedents §§ 1257–1259, 1348; and 8 Cannon's Precedents §§ 2533, 2538, 2539. See also Jefferson's Manual, *House Rules and Manual* § 369 (1979), for parliamentary law on calling to order.

19. 111 CONG. REC. 6107, 89th Cong. 1st Sess.

mittee of the Whole must take his seat.

> Mr. [Frank] Thompson [Jr.] of New Jersey: Mr. Chairman, I move to strike out the requisite number of words. . . .
>
> I might suggest further you can beat this dog all you want for political purposes; you can demagog however subtly and try to scare people off at the expense of the Nation's schoolchildren with your demagoguery——
>
> Mr. [Charles E.] Goodell [of New York]: Mr. Chairman, I demand that those words be taken down.
>
> Mr. Thompson of New Jersey: Please take the words down.
>
> Mr. Goodell: Mr. Chairman, the gentleman has accused one of his colleagues of demagoguery.
>
> Mr. Thompson of New Jersey: I was referring to a gentleman; who takes exception to that?
>
> Mr. Goodell: Mr. Chairman, a point of order: The gentleman must take his seat.
>
> The Chairman: The gentleman from New Jersey will take his seat.

Rising of Committee to Report Objectionable Words

§ 17.2 When words are taken down in the Committee of the Whole, the Committee immediately rises and the Chairman reports the words objected to to the House.

On Mar. 9, 1936,[20] during consideration of H.R. 11563, the District of Columbia rent commission bill, the Committee of the Whole rose immediately after a demand was made to take words down, and the Chairman reported the objectionable words to the House.

> Mr. [Henry] Ellenbogen [of Pennsylvania]: Mr. Chairman, a point of order. I ask that the gentleman's language be taken down. It is a violation of the rules of the House, and in the meantime I demand that the gentleman take his seat.
>
> The Chairman:[1] The Clerk will report the words objected to.
>
> The Clerk read as follows:
>
>> Mr. Blanton: Here is the answer, if the gentleman can understand English.
>
> The Committee rose and the Speaker pro tempore (Mr. O'Connor) having assumed the chair, Mr. Umstead, Chairman of the Committee of the Whole House on the state of the Union, reported that the Committee having had under consideration the bill (H.R. 11563), certain words used in debate were objected to and on request were taken down and read at the Clerk's desk and he reported the same to the House herewith.
>
> The Speaker Pro Tempore:[2] The Clerk will report the words objected to.
>
> The Clerk read as follows:
>
>> Mr. Blanton: Here is the answer, if the gentleman can understand English.

---

[20] 80 Cong. Rec. 3465, 74th Cong. 2d Sess. See 79 Cong. Rec. 1808, 74th Cong. 1st Sess., Feb. 7, 1935, for another illustration of this procedure.

[1] William B. Umstead (N.C.).

[2] John J. O'Connor (N.Y.).

The Speaker Pro Tempore: The Chair is ready to rule. The Chair sees nothing objectionable in the words used.

The Committee will resume its session.

Expungement of Words

§ 17.3 Where a demand is made that certain words spoken in debate be taken down in Committee of the Whole, such words must be reported to the House, and a motion to expunge words from the Record is not in order in the Committee.

On Feb. 18, 1941,(3) Chairman Warren G. Magnuson, of Washington, stated that the House, not the Committee of the Whole, determines whether to expunge from the Record words spoken and objected to in the Committee of the Whole.

Mr. [Clare E.] Hoffman [of Michigan]: All we ask in this case is what we do not expect to get, that you stick by the rules of the game you established last year. That is not too much to expect if we adhere to the agreement of last year. This would give us in Michigan the Representative to which we are entitled. But we know what you are going to do. You know what is going to happen. You are going to skin us, are you not? And we have no way to prevent it.

Mr. [Robert F.] Rich [of Pennsylvania]: I demand that the gentleman's words be taken down. . . .

The Chairman: . . . The Clerk will read the words objected to.

The Clerk read as follows:

> You know what is going to happen. You are going to skin us, are you not; and we have not any way to help it

Mr. Rich: Mr. Chairman, I ask that those words be expunged from the Record. They are not going to skin anybody around here.

The Chairman: That is a matter for the House to decide. The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Magnuson, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill H.R. 2665, certain words in debate were objected to, which, on request, where taken down and read at the Clerk's desk, and that he reported the same herewith to the House.

The Speaker:(4) The Clerk will report the words objected to.

The Clerk read as follows:

> Mr. Hoffman: You know what is going to happen. You are going to skin us, are you not; and we have not any way to help it.

The Speaker: The Chair is of the opinion that the expression contained in the words reported to the House is merely a colloquialism which does not reflect in an unparliamentary manner upon any Member.

---

3. 87 Cong. Rec. 1126, 77th Cong. 1st Sess.

4. Sam Rayburn (Tex.).

The Chair cannot see anything in these words which violates the rules of the House.

The Committee will resume its session.

Scope of Ruling by Speaker

§ 17.4 The Speaker passes only on words reported from the Committee of the Whole; a demand that additional words uttered in the Committee (but not reported to the House) be reported is not in order in the House.

On July 27, 1965,[5] during consideration of H.R. 77, repealing section 14(b) of the Labor-Management Relations Act, Speaker John W. McCormack, of Massachusetts, stated that he could rule only on words reported from the Committee of the Whole as recited by the Clerk.[6]

> MR. [CHARLES E.] GOODELL [of New York]: I would be very interested on this particular issue, if we are going to have a repeat of the exhibition on the housing vote with the gentleman withholding votes and seeing how they are necessary on the issue that comes before us. I hope that this will not be repeated. In my instance, and in the instance of all the gentlemen from New York, I believe we will be standing on the merits of whether we should have a Federal law that destroys the right of the States to make up their minds.
>
> MR. [NEAL] SMITH of Iowa: Mr. Chairman, I demand that the gentleman's words be taken down. He is impugning the motives of Members of this body.
>
> THE CHAIRMAN:[7] The Clerk will report the words objected to.
>
> The Clerk read as follows:
>
>> MR. GOODELL: I would be very interested on this particular issue if we are going to have a repeat of the exhibition on the housing vote with the gentlemen withholding votes and seeing how they are necessary on the issue that comes before us. I hope that this will not be repeated.
>
> THE CHAIRMAN: The Committee will rise.
>
> Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. O Brien, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 77) to repeal section 14(b) of the National Labor Relations Act, as amended, and section 705(b) of the Labor-Management Reporting and Disclosure Act of 1959 and to amend the first proviso of section 8(a)(3) of the National Labor Relations Act, as amended, certain words used in debate were objected to and on request were taken down and read at the Clerk's desk, and he herewith reported the same to the House.
>
> THE SPEAKER: The Clerk will report the words objected to.

---

[5] 111 CONG. REC. 18441, 89th Cong. 1st Sess.

[6] See 5 Hinds' Precedents § 5202, for additional support for this principle.

[7] Leo W. O'Brien (N.Y.).

The Clerk read as follows:

> Mr. Goodell: I would be very interested on this particular issue if we are going to have a repeat of the exhibition on the housing vote with the gentlemen withholding votes and seeing how they are necessary on the issue that comes before us. I hope that this will not be repeated.

Mr. Smith of Iowa: Mr. Speaker, there was another sentence following that. He did not read the last sentence.

The Speaker: The occupant of the Chair can pass only on the words that have been reported.

The Chair will state that in debate the question of impugning the motives or attacking the vote of a Member is one thing; but looking at it from a broad angle the remarks made by the gentleman from New York [Mr. Goodell], seem to come within the purview of the rules.

The Chair does not consider this to be a reflection, if the gentleman was making any reflection, upon any Member of the House or upon any State of the Union, particularly the State of Iowa.

The Chair overrules the point of order.

Mr. Smith of Iowa: Mr. Speaker, I demand the sentence following that be taken down. That was the sentence objected to. He said we did not vote on the merits.

The Speaker: The Chair will state that the Chair can only pass upon the words presented to the Chair and which were taken down in the Committee of the Whole.

Mr. Smith of Iowa: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Smith of Iowa: Are we not entitled to have the words taken down that were objected to in the Committee of the Whole so that Members can exercise their rights?

The Speaker: The Chair was confronted with the words actually reported by the Clerk.

Mr. Smith of Iowa: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Smith of Iowa: Then when we go back into the Committee of the Whole, am I entitled to demand that the words be taken down that I objected to and report them back?

The Speaker: The Chair will not pass upon what can be done in the Committee of the Whole. Of course, if the gentleman desires to renew his request, that would be a matter for the Chairman of the Committee of the Whole to consider on the question of whether or not the words were taken down as demanded by the gentleman from Iowa.

The Committee will resume its sitting.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 77 with Mr. O'Brien in the chair.

The Chairman: The Committee will be in order.

Mr. Smith of Iowa: Mr. Chairman, I demand that the words the gentleman most recently gave me be taken down.

The Chairman: The gentleman

from Iowa demands that certain additional words which he claims were uttered shall be taken down.

The Clerk will report the words objected to.

The Clerk read as follows:

> MR. GOODELL: In my instance and in the instance of all the gentlemen from New York, I believe we will be standing on the merits of whether we should have a Federal law that destroys the right of the States to make up their minds.

MR. SMITH of Iowa: That is not all of it, Mr. Chairman. That is not all of the words.

THE CHAIRMAN: I might say to the gentleman that is all that the Clerk was able to furnish the Chairman and I assume that the point he has raised——

MR. SMITH of Iowa: In that case, I withdraw the objection.

THE CHAIRMAN: Objection is withdrawn.

The Committee will proceed in order.

Automatic Resolution Into Committee After Ruling

§ 17.5 After the Speaker has ruled on words taken down in Committee, the House automatically again resolves into the Committee of the Whole.

On Mar. 26, 1965,[8] during consideration of H.R. 2362, the Elementary and Secondary Education Act of 1965, and after Speaker John W. McCormack, of Massachusetts, ruled on words taken down in the Committee of the Whole, the House automatically resolved into the Committee under the Chairmanship of Richard Bolling, of Missouri.

THE SPEAKER: The Clerk will report the words objected to.

The Clerk read as follows:

> I might suggest further you can beat this dog all you want for political purposes; you can demagog however subtly and try to scare people off at the expense of the Nation's schoolchildren with your demagoguery—

THE SPEAKER: The Chair feels that Members in debate have reasonable flexibility in expressing their thoughts.

The Chair sees nothing about the words that contravene the rules of the House. The point of order is not sustained.

The Committee will resume its sitting.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2362) with Mr. Bolling in the chair. . . .

THE CHAIRMAN: . . . The Chair recognizes the gentleman from New York [Mr. Powell).

Withdrawal of Demand

§ 17.6 A demand that words spoken in debate be taken down may be withdrawn without unanimous consent in the Committee of the Whole.

---

[8] 111 CONG. REC. 6107, 89th Cong. 1st Sess.

On July 3, 1946,(9) Chairman Wright Patman, of Texas, stated that withdrawal of a demand to take words down did not require unanimous consent.

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I move to strike out the last three words.

Mr. Chairman, I have just finished listening to two political tirades by two political tyros, and I say to those gentlemen that they cannot——

MR. [MATTHEW M.] NEELY [of West Virginia]: Mr. Chairman, I demand that those words be taken down.

MR. BROWN of Ohio: If the gentleman knows what the word "tyro" means he can have it taken down.

MR. NEELY: The gentleman knows that that statement is not true and that the statement is not justified. I demand that the words be taken down and stricken from the Record.

THE CHAIRMAN: The Clerk will report the words objected to.

MR. NEELY: Mr. Chairman, for fear that this procedure will delay the final vote on the bill, I withdraw my request.

MR. [EARL] WILSON [of Indiana]: I object, Mr. Chairman.

THE CHAIRMAN: It does not require unanimous consent to withdraw the request.

Withdrawal of Objectionable Words After Speaker's Ruling

§ 17.7 Words spoken in debate in the Committee of the Whole and ruled out of order by the Speaker when reported to the House may by unanimous consent be withdrawn; such consent when granted permits a Member who had the floor to continue without motion to proceed in order provided that his time had not expired.

On Mar. 16, 1939,(10) during consideration of H.R. 4852, the Department of the Interior appropriations bill, 1940, Speaker William B. Bankhead, of Alabama, stated that words spoken in the Committee of the Whole and objected to as violative of rules of the House could be withdrawn by unanimous consent. After the Committee resumed its sitting, Chairman Frank H. Buck, of California, ruled on whether the Member who had been granted unanimous consent to withdraw certain words could proceed with further debate.

MR. [LEE E.] GEYER of California: Mr. Chairman, I move to strike out the last two words. . . .

I have heard the gentleman from Wisconsin, the man who made Milwaukee famous, stand upon this floor a good many times. He is an estimable gentleman. I like him very much when he is not in the Well of this House. I have seen him come out with a hand

---

9. 92 CONG. REC. 8295, 79th Cong. 2d Sess.

10. 84 CONG. REC. 2871, 76th Cong. 1st Sess.

that only he possesses, a hand like a ham, and grasp this delicate instrument until it groaned from mad torture. I have seen him come on the floor and stamp up and down like a wild man.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I demand that the gentleman's words be taken down.

THE CHAIRMAN: The gentleman from New York demands that the words of the gentleman be taken down. The gentleman from California will take his seat.

The gentleman from New York will indicate to the Clerk the words objected to.

MR. TABER: "Stamping like a wild man" and "a hand like a ham."

Mr. [JOHN C.] SCHAFER [of Wisconsin]: Mr. Chairman, as far as I am concerned, I am not objecting to the words. I will handle him at a later date.

MR. TABER: I believe the integrity of the rules of the House should be preserved.

THE CHAIRMAN: The Clerk will report the words taken down at the request of the gentleman from New York.

The Clerk read as follows:

> I have seen him come on the floor and stamp up and down like a wild man.

MR. TABER: Mr. Chairman, there were some other words about "a hand like a ham."

THE CHAIRMAN: The Clerk will report the additional words.

The Clerk read as follows:

> I have seen him come out with a hand that only he possesses, a hand like a ham, and grasp this delicate instrument until it groaned from mad torture.

THE CHAIRMAN: The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Buck, Chairman of the Committee of the Whole House on the state of the Union, reported that the Committee having had under consideration the bill (H.R. 4852) the Interior Department appropriation bill, 1940, certain words used in debate were objected to and, on request, were taken down and read at the Clerk's desk, and that he herewith reported the same to the House.

THE SPEAKER: The Clerk will report the words objected to in the Committee of the Whole House on the state of the Union.

The Clerk read as follows:

> I have seen him come out with a hand that only he possesses, a hand like a ham, and grasp this delicate instrument until it groaned from mad torture. I have seen him come on the floor and stamp up and down like a wild man.

THE SPEAKER: The rule governing situations of this character provides as follows:

> OF DECORUM AND DEBATE
>
> When any Member desires to speak or deliver any matter to the House he shall rise and respectfully address himself to "Mr. Speaker," and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality.

The words objected to and which have been taken down and read from the Clerk's desk very patently violate the rule, because the words alleged do involve matters of personal reference and personality.

Mr. Schafer of Wisconsin: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Schafer of Wisconsin: Mr. Speaker, I do not believe the gentleman who had the floor had any intention of violating the rules. He was just carried away by the debate. I rise to ask if the words cannot be withdrawn by unanimous consent.

The Speaker: The words can be withdrawn by unanimous consent.

Mr. Geyer of California: Mr. Speaker, I wish to thank the gentleman from Wisconsin for his very generous attitude, and I ask unanimous consent to withdraw the words in question.

The Speaker: Is there objection to the request of the gentleman from California?

There was no objection.

The Speaker: The Committee will resume its sitting.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H.R. 4852, with Mr. Buck in the chair.

The Chairman: The gentleman from California is recognized for 3½ minutes.

Mr. [James W.] Mott [of Oregon]: Mr. Chairman, a parliamentary inquiry.

The Chairman: Does the gentleman from California yield for a parliamentary inquiry?

Mr. Geyer of California: I do not yield, Mr. Chairman.

Mr. Mott: A point of order, Mr. Chairman.

The Chairman: The gentleman will state it.

Mr. Mott: As I understand, Mr. Chairman, the proceeding just had takes the gentleman off the floor, and he may proceed only by unanimous consent.

The Chairman: The Chair may state that, by unanimous consent, the House permitted the gentleman to withdraw his words. That leaves the gentleman in the position he was before the words were uttered.

The gentleman from California will proceed.

Mr. Mott: Mr. Chairman, a further parliamentary inquiry.

The Chairman: Does the gentleman yield for a parliamentary inquiry?

Mr. Geyer of California: I do not care to yield for another one, Mr. Chairman.

Mr. Mott: A point of order, Mr. Chairman.

The Chairman: The gentleman will state it.

Mr. Mott: Mr. Chairman, I make a point of order that the time of the gentleman has expired.

The Chairman: The time of the gentleman has not expired. The point of order is overruled.

§ 18. Reading Papers

Rule XXX[11] provides that the question of whether a paper may be read is to be determined by a vote of the House. Nonetheless, when an objection to the reading of a paper is raised in the Committee of the Whole, the Committee need not rise; the issue is put to⁽¹²⁾ and voted on⁽¹³⁾ by the Committee, without debate.

---

[11] *House Rules and Manual* § 915 (1979); see Jefferson's Manual, *House Rules and Manual* §§ 432–436, for parlia-

Putting Question to Committee of the Whole

§ 18.1 Where objection is made in the Committee of the Whole to the reading of a paper, the question may be raised by motion and put to the Committee by the Chairman.

On Mar. 24, 1948,⁽¹⁴⁾ during consideration of S. 2202, the Foreign Assistance Act of 1948, Chairman Francis H. Case, of South Dakota, after objection was made, put to the Committee of the Whole a question regarding the reading of a letter.

Mr. [Vito] Marcantonio [of New York] (interrupting the reading of the letter): Mr. Chairman, will the gentleman yield?

Mr. [John M.] Vorys [of Ohio]: No.

Mr. Marcantonio: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Marcantonio: Mr. Chairman, in connection with my point of order, I just want to propound a parliamentary inquiry.

Mr. Vorys: I object to his propounding a parliamentary inquiry, Mr. Chairman.

Mr. Marcantonio: Then I make a point of order, Mr. Chairman.

The Chairman: The gentleman will state it.

Mr. Marcantonio: The point of order is that the gentleman cannot read anybody else's material without the consent of the Committee. I asked the gentleman to yield to me, and he would not yield.

The Chairman: The Chair will present that question to the Committee. The question is, Shall the gentleman be permitted to proceed with the reading of the letter?

The question was taken, and the Chair announced that the motion was agreed to.

§ 18.2 If objection is made in the Committee of the Whole to the reading of a letter by another Member, the question is determined by vote of the Committee without debate.

---

mentary law relating to reading papers. See also Ch. 29 §§ 80–84, infra.

12. § 18.1, infra.

13. § 18.2, infra.

14. 94 Cong. Rec. 3436, 80th Cong. 2d Sess.

On June 26, 1952,(15) during consideration of H.R. 8120, the Defense Production Act Amendments of 1952, the Committee of the Whole by vote and without debate permitted a Member to read a letter by a Governor after objection to that reading was raised.

Mr. [Clinton D.] McKinnon [of California]: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, yesterday the committee adopted, tentatively at least, the Cole amendment which provided for individual ceilings on price control. This amendment has a lot of things in it that I am sure the Members are not familiar with or I am sure they would not have adopted the amendment. In view of that, the chairman of the committee requested Governor Arnall, for whom I am sure the House has a high regard, to comment on what that would mean in regard to enforcement of price ceilings, and I should like to read what Governor Arnall has to say about it. He said this:

> It is my considered judgment that an amendment of this kind——

Mr. [Jesse P.] Wolcott [of Michigan]: Mr. Chairman, a point of order.

The Chairman:(16) The gentleman will state it.

Mr. Wolcott: I have not gone into this too thoroughly, but I make the point of order, Mr. Chairman, that it is against the rules of the House, which control the rules of the committee, to read letters from other than Members of Congress. We have been propagandized enough on this bill already.

The Chairman: If the gentleman from Michigan objects to the reading of the letter, the question will then be put to the members of the Committee of the Whole for a decision. Does the gentleman object to the further reading of the letter?

Mr. Wolcott: Yes; at this time I do object, Mr. Chairman.

The Chairman: The question is, Shall the gentleman from California be permitted to proceed with the reading of the letter?

The question was taken; and on a division (demanded by Mr. Wolcott) there were—ayes 103, noes 102.

Mr. Wolcott: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Wolcott and Mr. Bolling.

The Committee again divided; and the tellers reported there were—ayes 141, noes 113.

So Mr. McKinnon was permitted to proceed with the reading of the letter.

Time to Read

§ 18.3 A decision of the Committee of the Whole to permit a Member to read a paper means that the Member may read it within the five minutes allotted to him, and does not necessarily permit him to read the entire paper.

On June 26, 1952,(17) during con-

---

15. 98 Cong. Rec. 8175, 8176, 82d Cong. 2d Sess.
16. Wilbur D. Mills (Ark.).
17. 98 Cong. Rec. 8175, 8176, 82d Cong. 2d Sess.

sideration of H.R. 8210, the Defense Production Act Amendments of 1952, Chairman Wilbur D. Mills, of Arkansas, stated that a decision of the Committee of the Whole to permit a Member to read a letter enables the Member to use only the allotted time to read.

The Chairman: The gentleman from California is recognized [to read a letter].

Mr. [Clinton D.] McKinnon: Mr. Chairman, I want to thank the membership. I am sure there are many Members who are very desirous of getting all the information they can.

Mr. [Brent] Spence [of Kentucky]: Mr. Chairman, will the gentleman yield?

Mr. McKinnon: I yield to the gentleman from Kentucky.

Mr. Spence: I suggest the gentleman read the entire letter.

Mr. McKinnon: The letter reads as follows:

> It is my considered judgment that an amendment of this kind, if adopted, would throw a costly monkey-wrench into the food price-control machinery. It would come close to making it completely unworkable. Its effects can be simply stated: . . .
>
> I am confident that if Congress is informed of the consequences of this high-food price, red-tape amendment, it will be overwhelmingly defeated. This is no time to raise the prices of food to housewives or to make the small-business man go through mountains of red tape just to satisfy a few food organizations.
>
> I hope that you will call these considerations to the attention of the House if the individual mark-up amendment is offered on the floor.
>
> Sincerely yours,
>
> Ellis Arnall.

The Chairman: The gentleman has consumed 5 minutes. . . .

Mr. [Herman P.] Eberharter [of Pennsylvania]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Eberharter: Mr. Chairman, the House decided by a teller vote to permit the reading of this letter. I submit that the letter should be read in its entirety; that is the point of order I make.

The Chairman: That is not the decision made by the Committee. The Committee made the decision that the gentleman could read the letter within the time allotted to the gentleman of 5 minutes.

Mr. Eberharter: I did not hear it so stated when the motion was put, Mr. Chairman.

The Chairman: The question put to the Committee had nothing whatsoever to do with the time to be consumed by the gentleman from California. The Chair recognized the gentleman from California for 5 minutes; the question arose as to whether or not he could within that 5 minutes time read extraneous papers.

The point of order is overruled.

E. POINTS OF ORDER

§ 19. Generally

Questions of order relating to procedure (as distinguished from cases of disorder or contempt) arising in the Committee of the Whole are decided by the Chairman, not the Speaker.(18) However, on an occasion when the Chairman of the Committee of the Whole had taken an active part in the discussion of a point of order, the question was by unanimous consent passed over to be later raised in the House.(19)

Scope of Ruling

§ 19.1 The Chair does not rule on points not presented in a point of order.

On June 27, 1949,(20) during consideration of H.R. 4009, the Housing Act of 1949, and after overruling a point of order that particular provisions exceeded the jurisdiction of the Committee on Banking and Currency because they constituted appropriations, Chairman Hale Boggs, of Louisiana, declined to rule on an issue which had not been presented in a point of order.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, the point of order I make is that subparagraphs (e) and (f) of section 102 in title I constitute the appropriation of funds from the Federal Treasury, and that the Committee on Banking and Currency is without jurisdiction to report a bill carrying appropriations under clause 4, rule 21, which says that no bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.

This is no casual point of order made as a tactical maneuver in consideration of the bill. I make this point of order because this proposes to expand and develop a device or mechanism for getting funds out of the Federal Treasury in an unprecedented degree.

The Constitution has said that no money shall be drawn from the Treasury but in consequence of appropriations made by law. It must follow that the mechanism which gets the money out of the Treasury is an appropriation.

---

18. 5 Hinds' Precedents §§ 6927, 6928. See § 6, supra, for precedents relating to rulings of the Chairman generally. See Ch. 31, infra, for precedents relating to points of order generally. See 4 Hinds' Precedents §§ 4783, 4784, 5 Hinds' Precedents §§ 6921–6937, 6987, and 8 Cannon's Precedents § 3450, for pre-1936 precedents.
19. 7 Cannon's Precedents § 1527.
20. 95 CONG. REC. 8536–38, 81st Cong. 1st Sess.

I invite the attention of the Chairman to the fact that subparagraph (e) states:

> To obtain funds for loans under this title, the Administrator may issue and have outstanding at any one time notes and obligations for purchase by the Secretary of the Treasury in an amount not to exceed $25,000,000, which limit on such outstanding amount shall be increased by $225,000,000 on July 1, 1950, and by further amounts of $250,000,000 on July 1 in each of the years 1951, 1952, and 1953, respectively—

Within the total authorization of $1,000,000,000.

Further that subparagraph (f) provides that—

> The Secretary of the Treasury is authorized and directed—

And I call particular attention to the use of the words "and directed"—

> to purchase any notes and other obligations of the Administrator issued under this title and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended—

And so forth. The way in which this particular language extends this device of giving the Secretary authority to subscribe for notes by some authority is this: It includes the words "and directed."

In other words, the Secretary of the Treasury has no alternative when the Administrator presents to him some of these securities for purchase but to purchase them. The Secretary of the Treasury is not limited to purchasing them by proceeds from the sale of bonds or securities. He is directed to purchase these notes and obligations issued by the Administrator. That means he might use funds obtained from taxes, that he might use funds obtained through the assignment of miscellaneous receipts to the Treasury, that he might use funds obtained through the proceeds of bonds.

This proposal will give to the Committee on Banking and Currency, if it should be permitted, authority which the Committee on Appropriations does not have, for in the reporting of an appropriation bill for a fiscal year, any appropriation beyond the fiscal year would be held out of order. Here this committee is reporting a bill which proposes to make mandatory extractions from the Treasury during a period of 4 years. . . .

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, I agree with my friend who has raised the point of order that this is not a casual one, but, on the contrary, is a very sincere one. It presents a new question from a legislative angle to be passed upon in the direct question raised by the point of order. . . .

The provision in paragraph (f) that my friend has raised a point of order against relates entirely to loans. As we read section 102 of title I it starts out with loans. Throughout the bill, a number of times, there is reference to loans.

Paragraph (e) says:

> To obtain funds for loans under this title.

It is a loan.

The meat of the two paragraphs, as I see it, is this:

Paragraph (f), line 23, page 8, says:

> The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Administrator issued under this title and for such purpose is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such act, as amended, are extended to include any purchases of such notes and other obligations.

It seems to me that that is the meat. Certainly, the language there does not amount to an appropriation. It is entirely for loan purposes. . . .

I respectfully submit that it must call for an appropriation out of the general funds of the Treasury in order to violate the rules of the House. This permits the use of money raised by the sale of bonds under the Second Liberty Bond Act for loans to these public agencies, such loans to be repaid with interest.

I respectfully submit, complimenting my friend for having raised the point of order—and certainly, it is not a dilatory one, nor a casual one, one that demands respect—that the point of order does not lie against the language contained in the pending bill. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair agrees with the gentleman from South Dakota that the point which has been raised is not a casual point of order. As a matter of fact, as far as the Chair has been able to ascertain, this is the first time a point of order has been raised on this issue as violative of clause 4 of rule XXI.

As the Chair sees the point of order, the issue involved turns on the meaning of the word "appropriation." "Appropriation," in its usual and customary interpretation, means taking money out of the Treasury by appropriate legislative language for the support of the general functions of Government. The language before us does not do that. This language authorizes the Secretary of the Treasury to use proceeds of public-debt issues for the purpose of making loans. Under the language, the Treasury of the United States makes advances which will be repaid in full with interest over a period of years without cost to the taxpayers.

Therefore, the Chair rules that this language does not constitute an appropriation, and overrules the point of order.

MR. CASE of South Dakota: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE of South Dakota: Would the Chair hold then that that language restricts the Secretary of the Treasury to using the proceeds of the securities issued under the second Liberty Bond Act and prevents him from using the proceeds from miscellaneous receipts or tax revenues?

THE CHAIRMAN: The Chair does not have authority to draw that distinction. The Chair is passing on the particular point which has been raised.

MR. CASE of South Dakota: However, Mr. Chairman, it would seem implicit in the ruling of the Chair and I thought perhaps it could be decided as a part of the parliamentary history. It might help some courts later on.

THE CHAIRMAN: The Chair can make

a distinction between the general funds of the Treasury and money raised for a specific purpose by the issuance of securities. That is the point involved here.

Scope of Debate

§ 19.2 Debate on a point of order raised in the Committee of the Whole is within the discretion of the Chairman and must be confined to the point of order.

On Apr. 13, 1951,(1) during consideration of S. 1, 1951 Amendments to the Universal Military Training and Service Act, Chairman Jere Cooper, of Tennessee, stated that debate on a point of order is controlled by the Chair and must be confined to the point of order.

MR. [ANTONI N.] SADLAK [of Connecticut]: Mr. Chairman, I offer an amendment.

THE CHAIRMAN: The Clerk will report the amendment, but the Chair will state that all time for debate has been exhausted.

The Clerk read as follows:

> Amendment offered by Mr. Sadlak: Page 26, following the amendment offered by Mr. Walter, insert the following: "Any citizen of a foreign country. . . ."

MR. [CARL] VINSON [of Georgia]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the pending bill.

THE CHAIRMAN: Does the gentleman from Connecticut desire to be heard on the point of order?

MR. SADLAK: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. SADLAK: Mr. Chairman, how much time will be allotted to me for that purpose?

THE CHAIRMAN: That is in the discretion of the Chair. The gentleman's argument must be confined to the point of order.

Violation of Ramseyer Rule

§ 19.3 A point of order that a committee report fails to comply with Rule XIII clause 3,(2) the Ramseyer rule, will not lie in the Committee of the Whole.

On July 5, 1966,(3) during consideration of H.R. 14765, the Civil Rights Act of 1966, Chairman Richard Bolling, of Missouri, ruled whether a point of order that a committee report that failed to comply with Rule XIII clause 3, the Ramseyer rule, would lie in the Committee of the Whole.

MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill

---

1. 97 CONG. REC. 3909, 3910, 82d Cong. 1st Sess.
2. *House Rules and Manual* § 745 (1979).
3. 112 CONG. REC. 16840, 89th Cong. 2d Sess.

(H.R. 14765) to assure nondiscrimination in Federal and State jury selection and service . . . and for other purposes.

Mr. [John Bell] Williams [of Mississippi]: Mr. Speaker, a point of order.

The Speaker:[4] The question is on the motion offered by the gentleman from New York [Mr. Celler].

Mr. Williams: Mr. Speaker, a point of order.

The Speaker: All those in favor of the motion will let it be known by saying "aye." All those opposed by saying "no."

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 14765, with Mr. Bolling in the chair.

Mr. Williams: Mr. Chairman, a point of order. Mr. Chairman, I have a point of order. I was on my feet——

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. [Joe D.] Waggonner [Jr., of Louisiana]: Mr. Chairman.

The Chairman: Under the rule, the gentleman from New York [Mr. Celler] will be recognized for 5 hours. . . .

Mr. Williams: Mr. Chairman.

Mr. Celler: Mr. Chairman, I yield myself such time as I may care to use.

Mr. Chairman, Negroes propose to be free. Many rights have been denied and withheld from them. The right to be equally educated with whites. The right to equal housing with whites. The right to equal recreation with whites.

Mr. Williams: Mr. Chairman, a point of order.

Mr. Celler: Regular order, Mr. Chairman.

The Chairman: The gentleman will state his point of order.

Mr. Williams: Mr. Chairman, immediately before the House resolved itself into the Committee of the Whole House I was on my feet on the floor seeking recognition for the purpose of making a point of order against consideration of H.R. 14765 on the ground that the report of the Judiciary Committee accompanying the bill does not comply with all the requirements of clause 3 of rule XIII of the rules of the House known as the Ramseyer rule and intended to request I be heard in support of that point of order. I was not recognized by the Chair. I realize technically under the rules of the House at this point, my point of order may come too late, after the House resolved itself into the Committee of the Whole House on the State of the Union.

Mr. Celler: Mr. Chairman.

Mr. Williams: But I may say, Mr. Chairman, that I sought to raise the point of order before the House went into session. May I ask this question? Is there any way that this point of order can lie at this time?

The Chairman: Not at this time. It lies only in the House, the Chair must inform the gentleman from Mississippi.

Mr. Williams: May I say that the Parliamentarian and the Speaker were notified in advance and given copies of the point of order that I desired to raise, and I was refused recognition although I was on my feet seeking recognition at the time.

---

[4] John W. McCormack (Mass.).

Mr. [John J.] Flynt [of Georgia]: Mr. Chairman, I appeal the ruling of the Chair.

The Chairman: The Chair will have to repeat that the gentleman from Mississippi is well aware that this present occupant of the chair is powerless to do other than he has stated.

Mr. Waggonner: Mr. Chairman, I appeal the ruling of the Chair.

The Chairman: The question is, Shall the decision of the Chair stand as rendered?

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 139, noes 101.

The decision of the Chair was sustained.

§ 19.4 After brief debate on whether a point of order that a committee report violated the Ramseyer rule could be entertained in the Committee of the Whole, the Committee on motion rose; the Speaker announced that because of confusion in the Chamber he had not heard the Member seeking recognition on the point of order and, since the Member stated that he had been seeking recognition, agreed to hear his point of order.

On July 5, 1966,(5) after the Chairman of the Committee of the Whole refused to entertain a point of order that a committee report violated the Ramseyer Rule(6) and the Committee on appeal sustained that ruling, the Committee on motion rose. Speaker John W. McCormack, of Massachusetts, agreed to hear this point of order because he had not heard the Member, John Bell Williams, of Mississippi, seek recognition before the House resolved itself into the Committee of the Whole.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 14765) to assure nondiscrimination in Federal and State jury selection and service, to facilitate the desegregation of public education and other public facilities, to provide judicial relief against discriminatory housing practices, to prescribe penalties for certain acts of violence or intimidation, and for other purposes, had come to no resolution thereon.

The Speaker: The Chair recognizes the gentleman from Mississippi.

Mr. Williams: Mr. Speaker, the House resolved itself into the committee of the Whole House on the State of the Union a moment ago. When the question was put by the Chair, I was on my feet seeking recognition for the purpose of offering a point of order against consideration of the legislation. Al-

---

5. 112 Cong. Rec. 16840, 16842, 89th Cong. 2d Sess.

6. *House Rules and Manual* § 745 (1979).

though I shouted rather loudly, apparently the Chair did not hear me. Since the Committee proceeded to go into the Committee of the Whole, I would like to know, Mr. Speaker, if the point of order which I had intended to offer can be offered now in the House against the consideration of the bill; and, Mr. Speaker, I make such a point of order and ask that I be heard on the point of order.

THE SPEAKER: The Chair will state that the Chair did not hear the gentleman make his point of order. There was too much noise. Under the circumstances the Chair will entertain the point of order.

Rising of Committee Pending Decision

§ 19.5 A point of order having been raised in the Committee of the Whole against a bill reported by a nonappropriating committee, on grounds that it proposed an appropriation contrary to Rule XXI clause 5,(7) the Committee rose pending decision by the Chair on the point of order.

On June 4, 1957,(8) during consideration of H.R. 6974, extending the Agricultural Trade Development and Assistance Act of 1954, the Committee of the Whole rose pending a decision by the Chairman on a point of order.

The Clerk read as follows:

> *Be it enacted, etc.,* That the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended as follows: . . .

Mr. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I rise to a point of order against the entire bill, H.R. 6974, on the ground that it is a bill from a committee not having authority to report an appropriation. . . .

MR. [HAROLD D.] COOLEY [of North Carolina]: . . . I am a little bit apprehensive that the point of order may be sustained, if the Chair is called upon to rule on it. But, I think it would be very unfortunate for us to delay final action on the bill, and in the circumstances we have no other alternative other than to move that the Committee do now rise, and so, Mr. Chairman, I make that motion.

THE CHAIRMAN:(9) The Chair is prepared to rule on the point of order, but the motion offered by the gentleman from North Carolina that the Committee do now rise is in order, and the Chair will put the question.

The question is on the motion offered by the gentleman from North Carolina.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Hays of Arkansas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6974) to ex-

---

7. *House Rules and Manual* § 846 (1979).
8. 103 CONG. REC. 8298, 8318, 8319, 85th Cong. 1st Sess.
9. Brooks Hays (Ark.).

tend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes, had come to no resolution thereon.

Disposing of Points of Order Before Consideration of Bill for Amendment

§ 19.6 The Committee of the Whole agreed by unanimous consent to dispense with the reading of an appropriation bill for amendment and that points of order and then amendments could be submitted immediately after the first reading of the bill had been dispensed with.

On July 5, 1945,(10) the Committee of the Whole agreed to dispense with the reading of an appropriation bill, that the bill be considered as read, and that points of order and amendments be in order thereafter.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649) with Mr. Sparkman in the chair.

The Clerk read the title of the bill.

On motion of Mr. Cannon of Missouri the first reading of the bill was dispensed with.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I ask unanimous consent that the bill be considered as read and that all Members desiring to submit amendments or points of order have leave to submit them at this time

THE CHAIRMAN:(11) Is there objection to the request of the gentleman from Missouri?

There was no objection.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, in view of the unanimous consent request that has just been granted, I make the point of order against the first item, National War Labor Board, on the ground that it is an appropriation not authorized by law.

MR. CANNON of Missouri: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

MR. MARCANTONIO: Mr. Chairman, I make a point of order on the same grounds against the item for the Office of Defense Transportation on page 5.

MR. CANNON of Missouri: The point of order is conceded, Mr. Chairman.

THE CHAIRMAN: The gentleman from New York [Mr. Marcantonio] makes a point of order which the gentleman from Missouri [Mr. Cannon] concedes. The Chair sustains the point of order.

§ 19.7 Where unanimous consent is granted that the remainder of an appropriation bill be considered as read and that all portions thereof be subject to amendments and to points of order, the Chair suggests that points of order be disposed of first since it will be too late to

---

(10) 91 CONG. REC. 7226, 7227, 79th Cong. 1st Sess.

(11) John J. Sparkman (Ala.).

make such points after amendments to the bill have been considered.

On Apr. 25, 1947,(12) during consideration of H.R. 3123, the Department of the Interior appropriations bill, 1948, Chairman Earl C. Michener, of Michigan, suggested a time for the raising of points of order against amendments to the bill.

> MR. [ROBERT F.] JONES of Ohio: Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and that all portions thereof be subject to amendment and to points of order.
>
> THE CHAIRMAN: Is there objection to the request of the gentleman from Ohio?
>
> There was no objection.
>
> THE CHAIRMAN: The Chair suggests that the points of order be disposed of first under this procedure, before the amendments.
>
> MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, a point of order. . . .
>
> My point of order, Mr. Chairman, is that that is legislation amending a previous act and not within the purview of this bill making appropriations for fiscal 1948. It constitutes legislation on an appropriation bill for it destroys existing legislation.
>
> THE CHAIRMAN: This language changes a contract authorization contained in a previous appropriation bill passed by another Congress. The Chair sustains the point of order.
>
> Are there any further points of order to be made to the bill? If so, they will be taken up first since it will be too late to make points of order after amendments to the bill have been considered.

§ 20. Timeliness

Points of order on general appropriation bills are usually reserved in the House at the time of reference to the Committee of the Whole (to the Union Calendar) to permit the Committee to strike out portions in violation of the rules.(13) This reservation is necessary only on general appropriation bills;(14) failure to reserve the point of order precludes a ruling on it because the Chairman may not take away from the Committee of the Whole a portion of a bill committed to it by the House.(15) Not all points of order on appropriation bills must be reserved prior to reference to the Committee of the Whole, however. Points of order against the consideration of an

---

12. 93 CONG. REC. 4098, 80th Cong. 1st Sess.

13. 5 Hinds' Precedents §§ 6921–6925; 8 Cannon's Precedents § 3450.
Points of order on appropriation bills generally, see Ch. 25, infra.

14. 5 Hinds' Precedents § 6926.

15. § 20.11, infra.

appropriation bill, since made in the House, need not be reserved in advance. A point of order based on a rule which prohibits reporting of bills or joint resolutions carrying appropriations by committees which do not have jurisdiction to report appropriations may be made anytime.(16)

Generally, points of order against a provision in a bill or amendment are properly made when that provision or amendment is reached in the reading. Points of order against bills in their entirety are normally in order when called up.

Some points of order may not be raised in the Committee of the Whole. Those relating to a comparative print of proposed changes in law,(17) printing a bill and hearings prior to floor consideration,(18) and failure of a quorum to be present in a standing committee when a bill was reported(19) come too late in the Committee of the Whole; they should be raised in the House against consideration of the bill pending the motion to resolve into the Committee.

A point of order against a bill or a portion thereof based upon lack of committee jurisdiction of the committee reporting the bill comes too late when the bill is under consideration in Committee of the Whole, the proper remedy being the motion to correct an erroneous reference under Rule XXII clause 4 prior to the reporting of the bill.(1)

On Ramseyer Rule

§ 20.1 The point of order that a report fails to comply with the requirement that proposed changes in law be indicated typographically is properly made when the bill is called up in the House and before the House resolves into the Committee of the Whole.

On June 13, 1959,(2) Speaker pro tempore John W. McCormack, of Massachusetts, stated that the point of order that a report fails to comply with the requirement that proposed changes in law be indicated typographically as required

---

16. Rule XXI clause 5, *House Rules and Manual* § 846 (1979); and 7 Cannon's Precedents § 2148.
17. §§ 20.1–20.3, infra.
18. § 20.4, infra.
19. § 20.5, infra.

1. See *House Rules and Manual* § 854 (1979). See also 4 Hinds' Precedents § 4372; 7 Cannon's Precedents §§ 2112, 2114, 2115.
2. 105 Cong. Rec. 13226, 13227, 86th Cong. 1st Sess. See 114 Cong. Rec. 24245, 24252, 90th Cong. 2d Sess., July 30, 1968, for another illustration of this principle.

by the Ramseyer rule, Rule XIII clause 3,[3] is properly made when the bill is called up in the House and before the House resolves into the Committee of the Whole.[4]

Mr. [Thomas G.] Abernethy [of Mississippi]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6893) to amend the District of Columbia Stadium Act of 1957. . . .

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, I desire to make a point of order against the consideration of the bill and the report. When is the proper time to seek recognition for this purpose?

The Speaker Pro Tempore: This is the proper time for the gentleman to make this point of order.

Mr. Gross: . . . I submit, Mr. Speaker, and make the point of order, that this report No. 643, does not conform to rule XIII, otherwise known as the Ramseyer rule.

§ 20.2 The point of order that a report fails to comply with the Ramseyer rule comes too late after the House has resolved into the Committee of the Whole for consideration of the bill.

On Aug. 17, 1949,[5] during consideration of House Joint Resolution 339, amending an act making temporary appropriations for fiscal year 1950, as amended (continuing resolution), Chairman Jere Cooper, of Tennessee, indicated the time for raising a point of order that a report does not comply with the Ramseyer rule.

Mr. [John E.] Rankin [of Mississippi]: Mr. Chairman, I make a point of order. I was on my feet urging a point of order when the motion was made to go into committee. I make the point of order that this bill is not properly before the House, for the simple reason that the report does not comply with the Ramseyer rule, and therefore the membership is not properly informed as to what had obtained.

The Chairman: Of course, that point of order would have to be made in the House and not in Committee of the Whole. The point of order comes too late, and the Chair overrules the point of order.

§ 20.3 On appeal, the Committee sustained the Chair's ruling that a point of order against a committee report comes too late after the House has resolved itself into the Committee of the Whole.

On July 5, 1966,[6] during consideration of H.R. 14765, the Civil Rights Act of 1966, the Committee of the Whole on appeal sustained a ruling of Chairman Richard Bolling, of Missouri, on the timeliness of a point of order that a committee report violates Rule XIII clause 3,(7) the Ramseyer rule.

---

[3] *House Rules and Manual* § 745 (1979).

[4] See 8 Cannon's Precedents § 2243 for another precedent which states this principle.

[5] 95 Cong. Rec. 11654, 81st Cong. 1st Sess.

[6] 112 Cong. Rec. 16840, 16842, 89th Cong. 2d Sess.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Chairman.

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I yield myself such time as I may care to use.

Mr. Chairman, Negroes propose to be free. Many rights have been denied and withheld from them. The right to be equally educated with whites. The right to equal housing with whites. The right to equal recreation with whites.

MR. WILLIAMS: Mr. Chairman, a point of order.

MR. CELLER: Regular order, Mr. Chairman.

THE CHAIRMAN: The gentleman will state his point of order.

MR. WILLIAMS: Mr. Chairman, immediately before the House resolved itself into the Committee of the Whole House I was on my feet on the floor seeking recognition for the purpose of making a point of order against consideration of H.R. 14765 on the ground that the report of the Judiciary Committee accompanying the bill does not comply with all the requirements of clause 3 of rule XIII of the rules of the House known as the Ramseyer rule and intended to request I be heard in support of that point of order. I was not recognized by the Chair. I realize technically under the rules of the House at this point, my point of order may come too late, after the House resolved itself into the Committee of the Whole House on the State of the Union.

MR. CELLER: Mr. Chairman.

MR. WILLIAMS: But I may say, Mr. Chairman, that I sought to raise the point of order before the House went into session. May I ask this question? Is there any way that this point of order can lie at this time?

THE CHAIRMAN: Not at this time. It lies only in the House, the Chair must inform the gentleman from Mississippi.

MR. WILLIAMS: May I say that the Parliamentarian and the Speaker were notified in advance and given copies of the point of order that I desired to raise, and I was refused recognition although I was on my feet seeking recognition at the time.

MR. [JOHN J.] FLYNT [Jr., of Georgia]: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The Chair will have to repeat that the gentleman from Mississippi is well aware that this present occupant of the chair is powerless to do other than he has stated.

MR. [JOSEPH D.] WAGGONNER [Jr., of Louisiana]: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The question is, Shall the decision of the Chair stand as rendered?

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 139, noes 101.

---

7. *House Rules and Manual* § 745 (1979).

The decision of the Chair was sustained.[8]

Printing of Bill and Hearings

§ 20.4 After the House has resolved itself into the Committee of the Whole it is too late to make a point of order that the bill and hearings have not been printed and that minority views do not accompany the report.

On Nov. 4, 1943,[9] during consideration of H.R. 4598, the first supplemental national defense appropriations bill, Chairman John J. Sparkman, of Alabama, ruled untimely a point of order that a bill and hearings had not been printed and that minority views did not accompany the report.

> MR. [EARL] WILSON [of Indiana]: Then, Mr. Chairman, I make the point of order against further consideration of the bill on the ground that it has not been printed and presented to the House, and that the majority hearings have not been printed and presented to the House 24 hours ahead of the time when the bill is called up. Further, the minority views have not been printed.
>
> THE CHAIRMAN: The point of order comes too late. The House has already committed the bill to the Committee of the Whole House on the state of the Union and the bill is now properly before the Committee for its consideration. The point of order does not lie at this time.

Quorum in Standing Committee

§ 20.5 Points of order against a bill on the ground that a quorum of the standing committee was not present when the bill was ordered reported should be made in the House; such points come too late after the House has resolved itself into the Committee of the Whole for consideration of the bill.

On June 14, 1946,[10] during consideration of S. 524, the national cemetary bill, Chairman Jere Cooper, of Tennessee, stated that points of order that a quorum of the standing committee was not present when the bill was ordered reported should be made in the House.

> MR. [FOREST A.] HARNESS of Indiana. Mr. Chairman, a parliamentary inquiry.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. HARNESS of Indiana: At what time would a point of order lie against the bill on the ground that the committee reporting it was without juris-

---

[8] See § 19.4, supra, for a precedent relating to entertainment of this point of order by the Speaker after the Committee of the Whole rose on motion.

[9] 89 CONG. REC. 9121, 78th Cong. 1st Sess.

[10] 92 CONG. REC. 6961, 79th Cong. 2d Sess.

diction because at the time it reported the bill there was not a quorum present?

The Chairman: Answering the gentleman's parliamentary inquiry the Chair will state that such a point of order would be too late now that the House is in the Committee of the Whole House on the State of the Union. Such a point of order should be made in the House before consideration of the bill.

Effect of Commencement of Debate

§ 20.6 A point of order in the Committee of the Whole against an amendment to an appropriation bill comes too late if there has been debate on the amendment.

On Apr. 25, 1947,(11) during consideration of H.R. 3123, the Department of the Interior appropriations bill, 1948, Chairman Earl C. Michener, of Michigan, held that a point of order came too late after commencement of debate.

Mr. [Lowell] Stockman [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Stockman: Page 34, line 11, strike out "$125,000" and insert "$2,500,000."

Mr. Stockman: Mr. Chairman, the amount allowed by the budget for this item——

Mr. [Robert F.] Jones of Ohio: Mr. Chairman, I would like to make a point of order against this amendment, but will reserve it for the moment.

Mr. [Carl] Hinshaw [of California]: Mr. Chairman, I make the point of order that that comes too late.

The Chairman: The gentleman from Ohio makes a point of order. The gentleman from Oregon had already been recognized and had started debate. The Chair wants to be extremely fair and not too technical, but that is the situation. The Chair is constrained to hold that the point of order comes too late.

§ 20.7 A Member who has shown due diligence has been recognized to make a point of order against a proposed amendment even though the sponsor of the amendment has commenced his remarks.

On June 23, 1945,(12) during consideration of House Joint Resolution 101, extending the Price Control and Stabilization Acts, Chairman Jere Cooper, of Tennessee, recognized a Member to make a point of order notwithstanding the fact that the sponsor of the amendment had commenced his remarks.

Mr. [Francis H.] Case of South

---

11. 93 Cong. Rec. 4079, 80th Cong. 1st Sess. See 88 Cong. Rec. 754, 77th Cong. 2d Sess., Jan. 27, 1942, for another example of this principle.

12. 91 Cong. Rec. 6597, 6598, 79th Cong. 1st Sess.

Dakota: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Case of South Dakota: Insert a new section after section 2 to read as follows:
>
> "The Secretary of Agriculture shall confer with the Secretary of War and the Secretary of the Navy from time to time on the supplies of meat, sugar, poultry, dairy and vegetable products available in continental United States for military and civilian needs and said Secretary of Agriculture is authorized and directed to borrow or divert from military channels for critical civilian needs such stocks or supplies as he finds can be spared by the military and in such amounts as he can certify to the Secretary of War or the Secretary of the Navy can and will be restored by the time they are needed."

Mr. Case of South Dakota: Mr. Chairman, this amendment porposes——

Mr. [Brent] Spence [of Kentucky]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Spence: Mr. Chairman, I make the point of order that the amendment is not germane to the bill; that it includes matters not contemplated by the bill, and it goes far beyond the scope of the bill.

Mr. Case of South Dakota: Mr. Chairman, I think the gentleman's point of order comes too late, because I had been recognized and started to debate the amendment.

The Chairman: The gentleman from Kentucky was on his feet, and the point of order does not come too late. Does the gentleman from South Dakota desire to be heard on the point of order? . . .

Mr. Spence: Mr. Chairman, I insist on the point of order.

The Chairman: . . . [T]he Chair is of the opinion that the amendment is in order especially in view of the present form of the pending bill at this stage. The Chair overrules the point of order.

Effect of Failure to Obtain Recognition to Debate

§ 20.8 Recognition of a Member by the Chair to offer an amendment does not give such Member the privilege of debating his amendment; consequently a point of order against an amendment may be made in a proper case even though a Member has started debate thereon if he did not obtain recognition for that purpose (the Committee overruling the Chair on appeal).

On Feb. 1, 1938,(13) during consideration of amendments to H.R. 9181, the District of Columbia appropriations bill of 1939, it was contended that a point of order against an amendment was untimely in that it had been made after debate had begun. The proceedings were as follows:

The Clerk reads as follows:

> Amendment offered by Mr. Collins: On page 68, line 20, after the

---

(13) 83 Cong. Rec. 1372, 1373, 75th Cong. 3d Sess.

period, insert a new paragraph, as follows:

"Street lighting: For purchase, installation, and maintenance of public lamps, lampposts, street designations, lanterns, and fixtures of all kinds on streets, avenues, roads, alleys, and for all necessary expenses in connection therewith, including rental of storerooms, extra labor, operation, maintenance, and repair of motortrucks, this sum to be expended in accordance with the provisions of existing law, $765,000: *Provided*, That this appropriation shall not be available for the payment of rates for electric street lighting in excess of those authorized to be paid in the fiscal year 1927, and payment for electric current for new forms of street lighting shall not exceed 2 cents per kilowatt-hour for current consumed."

Mr. [Ross A.] Collins [of Mississippi]: Mr. Chairman, the language that is incorporated in the amendment——

Mr. [Jack] Nichols [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment.

Mr. Collins: Eliminates the language against which the gentleman made the point of order.

Mr. Chairman, I make the point of order that the gentleman's point of order comes too late.

The Chairman:(14) The gentleman from Oklahoma makes a point of order on the amendment, and the gentleman from Mississippi makes the point of order that the point of order made by the gentleman from Oklahoma comes too late.

The point of order of the gentleman from Mississippi is sustained. . . .

Mr. Nichols: If the Chair did recognize the gentleman from Mississippi I may say the Chair recognized him while I was on my feet taking the only opportunity presented to me to address the Chair, in order that I might direct my point of order to the Chair.

The Chairman: That may be true. The Chair does not care to indulge in any controversy on that question with the gentleman from Oklahoma. The Chair is merely stating what occurred. The Chair may state further to the gentleman from Oklahoma, in deference to the situation which has developed here, that if that had been true, under the rules it would have been the duty of the Chair to have recognized a member of the committee in preference to any other Member on the floor. The Chair was acting under the limitations of the rule. . . .

Mr. [Jesse P.] Wolcott [of Michigan]: Mr. Chairman, the rule, as I understand it, is that if any action is taken on the amendment, then the point of order is dilatory. The only action that could have been taken was recognition by the Chair of the gentleman from Mississippi to debate his amendment.

I want to call the attention of the Chair to the fact the only manner in which the Chair can recognize a Member to be heard on this floor is to refer to the gentleman either by name or by the State from which the gentleman comes, and I call the attention of the Chair to the fact that the Chair in this particular instance did not say he recognized the gentleman from Mississippi or the gentleman [Mr. Collins], and for that reason there was no official proceeding and no official action taken

---

14. William J. Driver (Ark.).

between the time that the amendment was offered and the time the gentleman from Oklahoma made his point of order, and therefore the point of order was not dilatory.

The Chairman: The Chair desires, in all fairness, to make this statement to the Committee, as well as directly to the gentleman from Michigan. Not only was the gentleman from Mississippi recognized, but he began an explanation of his amendment, and the Chair certainly presumes that the gentleman being on the floor at the time heard that; and when that occurred, the Chair does not think the gentleman will disagree with the Chair about the fact that the Chair is required, under the rules, to rule in deference to the situation that developed. The Chair does not desire to forestall proceedings and would be pleased to hear points of order, but the Chair must act within the definition of the rule.

Mr. Wolcott: If the Chair will indulge me for a moment in that respect, the point I wish to make is this. The gentleman from Mississippi had no authority to address this Committee until he had been recognized by the Chair, and if the gentleman from Oklahoma made his point of order during a brief sentence by someone which had no right under the rules of this House even to be reported by the official reporter, then he cannot be estopped, under those circumstances, from making his point of order. The Chair of necessity must have recognized the gentleman from Mississippi to debate the amendment.

The offering of an amendment is not a proceeding which will estop the gentleman from Oklahoma from making his point of order. It is recognition by the Chair of another gentleman to discuss the amendment, and the gentleman could have discussed the amendment only after recognition was given. . . .

Mr. Nichols: If the Chair has made a final ruling, I would, in the most respectful manner I know, request an appeal from the decision of the Chair.

The Chairman: The gentleman from Oklahoma appeals from the decision of the Chair on the ruling of the Chair on the point of order, as stated.

The question before the Committee is, Shall the ruling of the Chair stand as the judgment of the Committee?

The question was taken, and the Chair announced that the noes had it.

So the decision of the Chair does not stand as the judgment of the Committee.

Appeal of Chair's Ruling on Timeliness

§ 20.9 A ruling of the Chairman that a point of order is untimely may be appealed to the Committee of the Whole.

On Feb. 1, 1938,(15) during consideration of amendments to H.R. 9181, the District of Columbia appropriations bill, 1939, the Committee of the Whole overruled a decision of the Chairman that a

---

15. See § 20.8, supra, for the relevant proceedings of this date.

point of order had been made too late. The Chair invoked the principle that a point of order on an amendment is made too late after commencement of debate on the amendment. But the Committee took the view that recognition to offer an amendment did not automatically extend to the privilege of debating that amendment, so that a point of order would be timely if the proponent of the amendment had commenced debate without first receiving recognition to debate.

Against Appropriation Bill

§ 20.10 The time for making points of order against items in an appropriation bill is after the House has resolved itself into the Committee of the Whole and after the paragraph containing such items has been read for amendment.

On July 5, 1945,[16] during consideration of a motion that the House resolve into the Committee of the Whole for consideration of H.R. 3649, the war agencies appropriation bill, 1946, Speaker Sam Rayburn, of Texas, stated the rule as to the proper time to raise points of order against items in an appropriation bill.

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649), making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent to dispense with general debate in the Committee of the Whole.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, if, as in this case, the bill contains many items that are subject to a point of order, is it not in order to make a point of order against sending this bill to the Committee of the Whole?

THE SPEAKER: Under the rules of the House, it is not.

MR. MARCANTONIO: Then the procedure to make the point of order is to make it as the bill is being read for amendment?

THE SPEAKER: As the paragraphs in the bill are reached.

Is there objection to the request of the gentleman from Missouri?

There was no objection.

THE SPEAKER: The question is on the motion offered by the gentleman from Missouri.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649) with Mr. Sparkman in the chair.

---

16. 91 CONG. REC. 7226, 7227, 79th Cong. 1st Sess.

Time to Reserve Point of Order of Legislation on Appropriation Bill

§ 20.11 Where points of order were not reserved on an appropriation bill when it was reported to the House and referred to the Committee of the Whole, points of order against a proposition in violation of Rule XXI clause 2,(17) **as legislation on an appropriation bill, were overruled on the ground that the Chairman lacked authority to pass upon that question.**

On Apr. 8, 1943,(18) during consideration of H.R. 2409, the legislative and judiciary appropriation, 1944, Chairman James P. McGranery, of Pennsylvania, declined to rule on points of order that certain sections of a bill violated Rule XXI clause 2, allegedly legislation on an appropriation bill, because such points of order had not been reserved when the bill was reported to the House and referred to the Committee of the Whole.

The Clerk read as follows:

> Salaries of clerks of courts: For salaries of clerks of United States circuit courts of appeals and United States district courts, their deputies, and other assistants, $2,542,900. . . .

Mr. [Francis E.] Walter [of Pennsylvania]: Mr. Chairman, I make the point of order that the material contained in line 20, page 55, down to the end of the paragraph on page 56, line 11, is legislation on an appropriation bill.

Mr. [John J.] Cochran [of Missouri]: Mr. Chairman, I make the point of order that there was no reservation made when this bill was introduced with reference to points of order, and the Record will bear me out. Therefore, a point of order against anything in the bill now is not in order. . . .

Mr. Walter: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Walter: Is not the Chair in the position at this moment of having to rule on the point of order made by the gentleman from Missouri?

The Chairman: The Chair will have to rule unless the point of order is withdrawn. In that case the Chair would not be required to rule.

The Chair is prepared to rule, if there is no withdrawal of the points of order.

In this connection the Chair feels that there is a duty upon all Members to read the rules, which are published. This is not just mere custom, as the Chair sees it.

The Journal discloses that there were no points of order reserved on the pending bill when it was reported to the House on April 6, 1943.

The Chair has been very deeply impressed with the decisions on this question which run back to 1837, par-

---

17. *House Rules and Manual* § 834 (1979).
18. 89 Cong. Rec. 3150–53, 78th Cong. 1st Sess.

ticularly an opinion expressed by Chairman Albert J. Hopkins, of Illinois, on March 31, 1896—Hinds' Precedents, volume V, section 6923—in which it was stated:

> In determining this question the Chair thinks it is important to take into consideration the organization and power of the Committee of the Whole, which is simply to transact such business as is referred to it by the House. Now, the House referred the bill under consideration to this Committee as an entirety, with directions to consider it. The objection raised by the gentleman from North Dakota would, in effect, cause the Chair to take from the Committee the consideration of part of this bill, which has been committed to it by the House. The Committee has the power to change or modify this bill as the Members, in their wisdom, may deem wise and proper; but it is not for the Chairman, where no points of order were reserved in the House against the bill. . . . The effect would be, should the Chair sustain the point of order made by the gentleman from North Dakota, to take from the consideration of the Committee of the Whole a part of this bill which has been committed to it by the House without reservation of this right to the Chairman.

Hopkins then held that he had no authority to sustain a point of order against an item in the bill.

The present occupant of the chair feels constrained to follow the precedents heretofore established and sustains the point of order made by the gentleman from Missouri [Mr. Cochran].

Mr. [Earl C.] Michener [of Michigan]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Michener: For the sake of clarity and for the future, and may I say I have great respect for the Chairman's ruling, will the Chair differentiate between an appropriation bill in his final decision as written, that is, differentiate between the Hopkins decision which applies for all logical reasons to all legislative committees the same as it does to the Appropriations Committee?

The Chairman: The Chair thinks if the gentleman will read clause 2 of rule XXI he will find that that provision applies merely to appropriation bills, while clause 4 of rule XXI applies to legislative bills coming from committees not having appropriating powers.

Mr. Michener: That is the decision.

The Chairman: Yes.

Mr. Walter: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Walter. As I understood the Chairman, the point of order was overruled?

The Chairman: The Chair held that in the Chair's opinion he cannot pass upon the question raised by the gentleman. The Chair feels this bill was given to the Committee of the Whole House on the state of the Union in its entirety and that the Chair cannot under the present circumstances sustain a point of order against an item.

Mr. Walter: I understand that, but does the Chair mean that the point of order made by the gentleman from Missouri is sustained?

The Chairman: The Chair sustained the point of order made by the gentleman from Missouri and overruled the point of order made by the gentleman from Pennsylvania.

Mr. [Karl] Stefan [of Nebraska]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Stefan: May I ask the Chair if the ruling affects page 56, line 12, down to line 25, the part of the bill which had not been read?

The Chairman: The Clerk has not read that part of the bill.

Mr. Stefan: Then it has no effect upon the language appearing on page 56, lines 1 to 11?

The Chairman: The Chair's decision just now given will affect every item in the bill.

Mr. Stefan: In the entire bill?

The Chairman: Yes.

Mr. [Francis H.] Case [of South Dakota]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Case: Mr. Chairman, I note in reading the precedent to which the Chair has referred, volume 5, Hinds Precedents, page 957, that the Chairman at that time recognized that this was a very close question. The Chair raised this question: "The very most that could be done would be to report the point of order back to the House for its decision."

In other words, in taking the point of view that since the House had referred the bill to the Committee, no such question rose, the Chair might refer it back to the House for further instruction, which would be within the ruling that the Chair cited.

The Chairman: As the Chair read the particular case, that was the suggestion made by the Chairman, but there is nothing in the decision to show that that was actually done.

Effect of Failure to Raise Point of Order

§ 20.12 If no point of order is raised against an amendment proposing legislation on an appropriation bill being considered in the Committee of the Whole, the amendment may be perfected by germane amendments which provide exceptions from the language permitted to remain but do not add further legislation.

On Jan. 31, 1938,(19) during consideration of amendments to H.R. 9181, the District of Columbia appropriations bill, 1939, Chairman William J. Driver, of Arkansas, stated that if no point of order is raised against it, an amendment proposing legislation on an appropriations bill may be perfected by germane amendments which do not add further legislation on an appropriations bill.

The Clerk read as follows:

Amendment offered by Mr. [Millard F.] Caldwell [of Florida]: Page

---

19. 83 Cong. Rec. 1309, 1312, 75th Cong. 3d Sess.

13, line 2, after the amendment offered by Mr. Kennedy, insert a new paragraph, as follows:

"For a complete investigation of the administration of public relief in the District of Columbia, to be made under the supervision and direction of the Commissioners, including the employment of personal services without reference to the Classification Act of 1923, as amended, and civil-service requirements, $5,000."...

The Clerk read as follows:

> Amendment offered by Mr. Caldwell to the amendment pending: After the word "relief" in the proposed amendment, insert "not including the activities of the Works Progress Administration."

Mr. [Claude A.] Fuller [of Arkansas]: Mr. Chairman, I make the point of order against the amendment for the reason that is it legislation on an appropriation bill and, furthermore, that it seeks to make an appropriation for an item not authorized by law. . . .

The Chairman: Objection is heard. The Chair is ready to rule. The gentleman from Florida offers an amendment to the pending amendment in the following language:

> After the word "relief" in the proposed amendment, insert "not including the activities of the Works Progress Administration."

That is the amendment to the amendment offered and to which the gentleman from Arkansas addresses his point of order. The original amendment proposed legislation on an appropriation bill, but no point of order was raised against it. That being so, an amendment that would contain an exception would be germane and in order, certainly. Therefore, the point of order that the gentleman directs to the amendment to the amendment must be overruled.

Point of Order as to Diversion of Appropriated Funds

§ 20.13 A point of order against an amendment to a legislative bill proposing an appropriation of funds that have already been appropriated is in order even though debate has started on such amendment, since Rule XXI clause 5 permits such a point of order "at any time."

On July 29, 1953,[1] during debate on an amendment to H.R. 6016, an emergency famine relief bill, Chairman Glenn R. Davis, of Wisconsin, sustained a point of order against the amendment to a bill reported from a committee not having authority to report appropriations, on the ground that it proposed an appropriation of funds previously appropriated for a specific purpose.

Mr. [Paul C.] Jones of Missouri: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Jones of Missouri: Mr. Chairman, would this be the proper time to make a point of order against some wording in section [2]?

---

[1] 99 Cong. Rec. 10398, 83d Cong. 1st Sess.

The Chairman: The Chair will hear the gentleman to state the point of order.

Mr. [Charles A.] Halleck [of Indiana]: Mr. Chairman, may I suggest that the point of order comes too late, the section has been read.

Mr. Jones of Missouri: We are debating on the whole bill, and I suggest that we do not want to pass a bill without considering every part of it.

The Chairman: Section (2) is now under consideration.

Mr. Jones of Missouri: Mr. Chairman, that is what I want to make my point of order on.

The Chairman: The gentleman will state the point of order.

Mr. Jones of Missouri: Mr. Chairman, I make a point of order against the wording beginning on line 24:

> Any assets available to the Commodity Credit Corporation may be used in advance of such appropriations or payments, for carrying out the purposes of this act.

Mr. Chairman, I make that point of order on the ground that when I offered an amendment authorizing that the $100 million be taken from funds heretofore appropriated for the Mutual Security Administration, the point of order was sustained that those funds were already appropriated for a specific purpose and that we could not divert such funds. I am making the same point of order now that any assets available to the Commodity Credit Corporation which have heretofore been appropriated would be by the same token diverted to this purpose for the use of the Mutual Security Administration. In other words, the situation if this is permitted to stay in the bill would be that we could not divert Mutual Security funds to carry out this, but that we could divert agricultural funds to carry out a mutual-security program. . . .

Mr. [James G.] Fulton [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Fulton: Mr. Chairman, is it not the parliamentary situation here that debate has commenced on section 2 at the particular time when the point of order is being made by the gentleman from Missouri [Mr. Jones]?

The Chairman: The Chair is advised that this point of order may be made at any time of the consideration of the section.

The Chair is ready to rule. Since the previous point of order was sustained on similar grounds, the Chair now sustains the point of order of the gentleman from Missouri [Mr. Jones].

Parliamentarian's Note: Rule XXI clause 5, *House Rules and Manual* § 846 (1979) provides:

> No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

Point of Order as to Germaneness

§ 20.14 A point of order as to the germaneness of an amendment may be reserved when the amendment is read, and the Chairman rules on the point of order when the sponsor of the amendment ends his five-minute debate.

On Apr. 13, 1946,(2) during consideration of H.R. 6064, extending the Selective Service and Training Act, with Chairman Alfred L. Bulwinkle, of North Carolina, presiding, the following proceedings took place:

MR. [Ross] RIZLEY [of Oklahoma]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Rizley: On page 2, line 18, after the word "months" and before the word "unless", insert the following: "except that every individual heretofore inducted under the provision of subsection (a) who has a wife and one or more legitimate children, shall upon his request in writing be excused from further service and shall be separated from the service within 60 days from and after the effective date of this act."

MR. [ANDREW J.] MAY [of Kentucky]: Mr. Chairman, I reserve a point of order against the amendment. . . .

MR. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MAY: Having reserved a point of order on the amendment, Mr. Chairman, does that point of order have to be ruled upon when the party offering it finishes his debate?

THE CHAIRMAN: It should be. The gentleman will state his point of order.

MR. MAY: Mr. Chairman, my point of order is that this amendment has the effect of requiring the Army to discharge a certain group of people that are already in the service. The statute under consideration to which the gentleman's pending amendment is offered is an induction statute and not a discharge law.

THE CHAIRMAN: Does the gentleman from Oklahoma desire to speak on the point of order?

MR. RIZLEY: I think certainly the amendment is pertinent to this very section of the bill. The bill provides that no one can be taken into the service for more than 18 months, and I simply offered an amendment which excepts married men already in the service and says that they shall be discharged within 60 days from the effective date of this act.

THE CHAIRMAN: The Chair is ready to rule on the point of order.

The amendment offered by the gentleman from Oklahoma relates to the discharge of men. It is not germane either to the section or to the bill. The Chair sustains the point of order.

Effect of Agreement to Dispense With Reading

§ 20.15 Where the Committee of the Whole agrees that the remainder of an appropriation bill

---

[2] 92 CONG. REC. 3660-63, 79th Cong. 2d Sess.

be considered as read and open at any point to points of order and amendments, the Chair asks if there are any points of order and then if there are any amendments; points of order against portions of the bill made subsequent to the offering of amendments are not recognized.

On Aug. 19, 1949,(3) during consideration of H.R. 6008, the supplemental appropriations bill, 1950, Chairman Aime J. Forand, of Rhode Island, declined to entertain a point of order against a portion of the bill after an amendment was offered. The Chairman noted that he had requested that points of order be raised when the further reading of the bill was dispensed with.

> MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and be open at any point to points of order and amendments.
>
> THE CHAIRMAN: Is there objection to the request of the gentleman from Michigan?
>
> There was no objection.
>
> THE CHAIRMAN: Are there any points of order?
>
> If not, are there any amendments?
>
> MR. [WILLIAM M.] WHEELER [of Georgia]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Wheeler: On page 6, line 17, strike out all the paragraph to and including all of lines 16 on page 7. . . .
>
> MR. [JAMES P.] SUTTON [of Tennessee]: Mr. Chairman, a point of order.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. SUTTON: Mr. Chairman, I make the point of order against the language on page 19 that it is legislation on an appropriation bill.
>
> THE CHAIRMAN: The point of order comes too late. At the time the further reading of the bill was dispensed with, the Chair requested Members desiring to make points of order to do so at that time.
>
> The Chair recognizes the gentleman from Nebraska [Mr. Miller].

Report on Striking Language From Senate Bill

§ 20.16 Where language in violation of Rule XXI clause 5(4) is stricken from a Senate bill in the Committee of the Whole by a point of order, the Chairman reports that fact to the House when the measure is reported to the House.

---

3. 95 CONG. REC. 11870, 11876, 81st Cong. 1st Sess.

4. *House Rules and Manual* § 846 (1979), which makes subject to points of order appropriation measures reported from committees that do not have jurisdiction over appropriations.

On July 31, 1957,(5) after the Committee of the Whole rose and reported a bill, Chairman George H. Mahon, of Texas, reported that language in violation of then Rule XXI clause 4 (now clause 5), had been stricken from the bill by the Committee.

THE CHAIRMAN: The time of the gentleman from Michigan has expired.

All time has expired.

The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Mahon, Chairman of the Committee of the Whole House on the State of the Union, stated that that Committee having had under consideration the bill (S. 1856) to provide for the development and modernization of the national system of navigation and traffic-control facilities to serve present and future needs of civil and military aviation, and for other purposes, pursuant to House Resolution 361, he reported the same back to the House.

The Chairman also reported that the language in the bill on page 7, line 12, reading as follows: "and unexpended balances of appropriations, allocations, and other funds available or" was stricken out on a point of order.

Parliamentarian's Note: If the Senate bill passes the House in this form, it is messaged to the Senate as having been passed with an amendment, although the House does not vote separately on the language stricken in Committee of the Whole on a point of order.

Points of Order Against Measure Committed to Conference

§ 20.17 Where a House bill with Senate amendments has been sent to conference and the stage of disagreement reached, it is too late to raise a point of order that the amendments of the Senate should have been considered in the Committee of the Whole pursuant to Rule XX clause 1.(6)

On Oct. 20, 1966,(7) during consideration of Conference Report No. 2327, on H.R. 13103, the Foreign Investment Tax Act of 1966, Speaker John W. McCormack, of Massachusetts, stated that a point of order under Rule XX clause 1, that a particular Senate amendment should have been considered in the Committee of the Whole, comes too late after conferees have reported.

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I call up the conference report on the bill (H.R.

---

5. 103 CONG. REC. 13182, 13183, 85th Cong. 1st Sess. The point of order against the language in question, as being an appropriation on a legislative bill, is at p. 13056 (July 30, 1957).
6. *House Rules and Manual* § 827 (1979).
7. 112 CONG. REC. 28240, 28241, 89th Cong. 2d Sess.

13103) to amend the Internal Revenue Code of 1954 to provide equitable tax treatment for foreign investment in the United States, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

THE SPEAKER: Is there objection to the request of the gentleman from Arkansas?

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I desire to make a point of order against title III of the conference report.

THE SPEAKER: The gentleman will state his point of order.

MR. SMITH of Virginia: Mr. Speaker, this point of order is directed at title III of the conference report. That title is the one that provides for the contribution of $1 apiece from any taxpayer who wishes to do so, to be used as a fund to be divided between the political parties in Presidential elections. The title itself has never been before the House. This is a Senate amendment to the bill that the gentleman from Arkansas has just called up. It is not germane to that bill itself and comes under the prohibition of rule XX of the rules of the House. . . .

If that amendment had been offered when the bill was under consideration in the House it would have had to be under rule XX, and considered under rule XX that I have just read.

Now, because it is a bill which is an appropriation bill we cannot consider it except in the Committee of the Whole House on the State of the Union. This rule provides that if there is put on it a Senate amendment and it comes back it is subject to a point of order that it has not been considered in the Committee of the Whole House on the State of the Union. . . .

THE SPEAKER: The Chair is prepared to rule.

The gentleman from Virginia makes the point of order that title III of the conference report contravenes the first sentence of rule XX:

> Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the State of the Union, if, originating in the House, it would be subject to that point:

Without passing upon the germaneness of the amendment, because that point was not raised, the Chair calls attention to the fact that the Senate amendment went to conference by unanimous consent. Where unanimous consent was obtained, the effect of that is to circuit rule XX, in other words, to waive or vitiate that portion of rule XX.

If objection had been made at the point when the unanimous consent request was made to send the bill to conference, then the bill could have been referred to the proper standing committee, and then, if and when reported out of the committee would have been brought up for consideration in the Committee of the Whole House on the State of the Union.

At this point, and under the parliamentary situation, the bill was sent to conference by unanimous consent; and this applies to all bills that go to conference by unanimous consent, if there be provisions therein that might be subject to the first sentence of rule XX. If there is no objection made at that time, the bill goes to conference; which in this case had the effect of suspending that portion of rule XX. Therefore, it is properly before the House at the present time as part of the conference report and the Chair overrules the point of order.

Mr. Smith of Virginia: Mr. Speaker, may I add one comment since this is a very important question.

The Speaker: The Chair will, of course, hear the gentleman.

Mr. Smith of Virginia: Mr. Speaker, this did not go to conference by unanimous consent because it was never in the House bill. It was in the Senate bill and it never got in the House bill until last night.

The Speaker: The Chair will call to the attention of the gentleman from Virginia that the unanimous consent request was made to take a bill from the Speaker's desk with Senate amendments thereto, and disagree to the Senate amendments and request a conference.

F. RISING OF THE COMMITTEE OF THE WHOLE

§ 21. Generally

The Committee of the Whole may rise formally or informally. Sometimes, on the informal rising of the Committee of the Whole, the House by unanimous consent transacts unrelated business, such as the presentation of enrolled bills, the swearing in of a Member, or consideration of the message.(8)

The Committee of the Whole rises automatically on adoption of the recommendation that the enacting clause be stricken out.(9)

Formal and Informal Rise

§ 21.1 When the Committee of the Whole rises—that is, concludes or suspends its proceedings—it may do so either formally or informally. When it rises informally, it rises at the direction of the Chairman, without a formal motion from the floor. Thus the Committee may rise informally to receive a message from the President.

On Apr. 8, 1967,(10) the Commit-

---

8. 4 Hinds' Precedents §§ 4788–4791. See Jefferson's Manual, *House Rules and Manual* §§ 330, 331, 333, 334, 563 (1973), for parliamentary law regarding rising of the Committee of the Whole.

9. 8 Cannon's Precedents § 2629.

10. 113 Cong. Rec. 8585, 90th Cong. 1st Sess. See 110 Cong. Rec. 18262,

tee of the Whole rose informally to receive a message from the President.

THE CHAIRMAN:(11) The Committee will rise informally to receive a message.

The Speaker assumed the Chair.

THE SPEAKER:(12) The Chair will receive a message.

A message in writing from the President of the United States was communicated to the House by Mr. Jones, one of his secretaries.

THE SPEAKER: The Committee will resume its sitting.

§ 21.2 The Committee of the Whole may rise, informally, immediately after having resolved into the Committee following a quorum call in Committee and the Chair's report to the House.

On Apr. 21, 1969,(13) the Committee of the Whole rose, informally, immediately after having resolved into the Committee following a quorum call.

MR. [FRANK E.] EVANS of Colorado: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:(14) The Chair will count. . . .

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 514, and finding itself without a quorum, he had directed the roll to be called, when 325 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

THE CHAIRMAN: The Committee will rise informally in order that the House may receive a message.

The Speaker assumed the chair.

THE SPEAKER:(15) The Chair will receive a message.

A message in writing from the President of the United States was communicated to the House by Mr. Geisler, one of his secretaries.

THE SPEAKER: The Committee will resume its sitting.

Automatic Rise Pursuant to Agreement

§ 21.3 When the House has limited general debate to a time certain and provided for the Committee of the Whole to rise at the conclusion of that time, the Committee then rises without a motion or vote.

18263, 88th Cong. 2d Sess., Aug. 6, 1964, for another illustration of this principle.

11. John H. Dent (Pa.).
12. John W. McCormack (Mass.).
13. 115 CONG. REC. 9705, 91st Cong. 1st Sess.
14. Charles M. Price (Ill.).
15. John W. McCormack (Mass.).

On Apr. 9, 1963,(16) upon arrival of the time to close debate during consideration of H.R. 5517, making supplemental appropriations for fiscal year 1963, the Committee of the Whole rose without motion or vote.

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5517, making supplemental appropriations for the fiscal year ending June 30, 1963, and for other purposes; and, pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be concluded not later than 5 p.m. today, one-half of the time to be controlled by the gentleman from Ohio [Mr. Bow], and one-half by myself, and that at the conclusion of general debate today the Committee will rise. . . .

THE SPEAKER:(17) Is there objections to the request of the gentleman from Texas?

There is no objection.

THE SPEAKER: The question is on the motion offered by the gentleman from Texas [Mr. Thomas].

The motion was agreed to. . . .

THE CHAIRMAN:(18) The time of the gentleman from California has expired, all time for debate has expired. The hour is 5 o'clock. Under the previous order of the House the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5517) making supplemental appropriations for the fiscal year ending June 30, 1963, and for other purposes, had come to no resolution thereon.

Effect of Motion to Rise on Amendments

§ 21.4 Where the Committee of the Whole during consideration of amendments to a bill votes merely that the Committee rise, the Chairman reports to the House that the Committee has considered the bill but come to no resolution thereon; he does not under this procedure report the bill back to the House with amendments.

On Aug. 24, 1949,(19) during consideration of H.R. 6070, to amend the National Housing Act, Chairman Mike Mansfield, of Montana, indicated the procedure to be followed when the Committee of the Whole votes to rise, and the effect thereof on amendments taken up by the Committee.

---

16. 109 CONG. REC. 6044, 6072, 88th Cong. 1st Sess.
17. John W. McCormack (Mass.).
18. Richard Bolling (Mo.).
19. 95 CONG. REC. 12186, 12187, 81st Cong. 1st Sess.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read, as follows:

> Amendment offered by Mr. Marcantonio: On page 34, after the period on line 5, add a new subsection:
>
> "Sec. —. Prohibition against discrimination. . . ."

THE CHAIRMAN: The question is on the amendment offered by the gentleman from New York [Mr. Marcantonio].

The question was taken; and on a division (demanded by Mr. Marcantonio) there were—ayes 62, noes 31.

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I demand tellers.

Tellers were ordered; and the Chairman appointed Mr. Buchanan and Mr. Marcantonio to act as tellers.

The Committee again divided; and the tellers reported there were—ayes 77, noes 57.

So the amendment was agreed to.

MR. SPENCE: Mr. Chairman, I move that the Committee do now rise.

MR. [Jesse P.] WOLCOTT [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WOLCOTT: If the Committee rises at the present time will it report the bill back to the House with amendments, or will it report that it has come to no conclusion thereon? What is the situation?

THE CHAIRMAN: This is simply a motion that the Committee rise. There are several amendments yet to be offered.

The question was taken; and the Chairman announced that the noes appeared to have it.

MR. SPENCE: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Patman and Mr. Wolcott.

The Committee again divided, and the tellers reported that there were—ayes 86, noes 83.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. Priest, having assumed the chair, Mr. Mansfield, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6070) to amend the National Housing Act, as amended, and for other purposes, had come to no resolution thereon.

Rising of Committee to Report Objectionable Words

§ 21.5 When words are taken down in the Committee of the Whole, the Committee must immediately rise and the Chairman reports the questionable words to the House.

On Mar. 9, 1936,[20] during consideration of H.R. 11563, the District of Columbia rent commission bill, the Committee of the Whole rose immediately after a demand was made to take words down.

---

[20] 80 CONG. REC. 3465, 74th Cong. 2d Sess. See 79 CONG. REC. 1808, 74th Cong. 1st Sess., Feb. 7, 1935, for another illustration of this procedure.

Mr. [Henry] Ellenbogen [of Pennsylvania]: Mr. Chairman, a point of order. I ask that the gentleman's language be taken down. It is a violation of the rules of the House, and in the meantime I demand that the gentleman take his seat.

The Chairman:[1] The Clerk will report the words objected to.

The Clerk read as follows:

> Mr. Blanton: Here is the answer, if the gentleman can understand English.

The Committee rose and the Speaker pro tempore (Mr. O'Connor) having assumed the chair, Mr. Umstead, Chairman of the Committee of the Whole House on the state of the Union, reported that the Committee having had under consideration the bill (H.R. 11563), certain words used in debate were objected to and on request were taken down and read at the Clerk's desk and he reported the same to the House herewith.

The Speaker Pro Tempore:[2] The Clerk will report the words objected to.

The Clerk read as follows:

> Mr. Blanton: Here is the answer, if the gentleman can understand English.

The Speaker Pro Tempore: The Chair is ready to rule. The Chair sees nothing objectionable in the words used.

The Committee will resume its session.

Rising on Ceremonial Occasions

§ 21.6 The Speaker was instrumental in causing the Committee of the Whole to rise because of the death of a Senator, formerly a Member of the House.

On Mar. 8, 1951,[3] Speaker Sam Rayburn, of Texas, was instrumental in causing the Committee of the Whole to rise on the death of Senator Virgil M. Chapman, formerly a Member of the House. After the Committee of the Whole rose, on motion, the Speaker addressed the House from the chair.

> The Speaker: The Chair desires to inform the House that he was instrumental in seeing that the Committee rose at this time because of the death of a great citizen, a great Senator, and a former great Member of the House of Representatives. The Chair would much prefer that gentlemen who have special orders for this afternoon postpone their special orders. The Chair knows that the gentleman from Texas [Mr. Patman], who has a special order for today, does not want to use his time.

§ 21.7 During consideration of an appropriations bill, the Committee of the Whole rose to permit the House to commemorate the 150th anniversary of the organization of the Supreme Court.

---

[1] William B. Umstead (N.C.).

[2] John J. O'Connor (N.Y.).

[3] 97 Cong. Rec. 2153, 82d Cong. 1st Sess.

On Feb. 1, 1940,(4) during consideration of H.R. 8202, the agriculture appropriation bill, the Committee of the Whole rose to permit the House to hold exercises commemorating the 150th anniversary of the organization of the Supreme Court.

MR. [CLARENCE] CANNON of Missouri: Mr Chairman, I move that the Committee do now rise, for the purpose of affording the House of Representatives an opportunity to hold exercises in commemoration of the one hundred and fiftieth anniversary of the organization of the Supreme Court of the United States; and pending that motion, I may say, Mr Chairman, that at the conclusion of the exercises, at approximately 3 o'clock, the Committee will resume its session and continue consideration of the bill.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Cole of Maryland, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill H.R 8202, the agricultural appropriation bill, 1941, had come to no resolution thereon.

THE SPEAKER:(5) Members of the House of Representatives, as you are doubtless aware, this is the one hundred and fiftieth anniversary of the first convening of the Supreme Court of the United States.

§ 22. Motions to Rise

It is in order for any Member of the Committee of the Whole to move to rise and the Chairman is constrained to recognize for that purpose,(6) unless another Member controls the floor.(7) However, neither the motion to rise(8) nor the motion to rise and report is debatable.(9)

Although a motion that the Committee of the Whole rise and resume its sitting on a day certain is not in order in the Committee,(10) a motion to rise and report with the recommendation that consideration be postponed to a day certain is in order and preferential where the Committee is operating under the general rules of the House,(11) but not where the Committee is operating under a special rule specifying the conditions under which the bill is to be considered.(12)

The simple motion to recommit is not admissible in the Committee of the Whole, but a motion to rise and report with the recommendation that the bill be recommitted is in order(13) unless that motion is precluded by the terms of a special rule.(14)

---

(4) 86 CONG. REC. 935, 936, 76th Cong. 3d Sess

(5) William B. Bankhead (Ala.).

(6) 8 Cannon's Precedents § 2369.

(7) See § 24.2, infra.

(8) § 22.4, infra.

(9) 4 Hinds' Precedents § 4766.

(10) § 22.2, infra.

(11) 8 Cannon's Precedents § 2372.

(12) For an example of the effect of a special rule on the availability of certain motions to rise with recommendations, see § 23.12, infra.

Form of Motion

§ 22.1 The Committee of the Whole may rise pursuant to a motion from the floor in which a Member states "Mr. Chairman, I move that the Committee do now rise."

On Apr. 14, 1970,(15) the Committee of the Whole rose pursuant to a motion from the floor to enable the Speaker to sign and lay before the House an enrolled bill to increase the pay of federal employees. After the Speaker announced his signature the House agreed to a motion to resolve into the Committee. The proceedings were as follows:

> MR. [DANIEL J.] FLOOD [of Pennsylvania]: I take this time to advise the Chair and the Committee that the postal pay raise bill is about to be presented. I understand that action will take place immediately as the Speaker has just advised us.
>
> Mr. Chairman, I move that the Committee do now rise.
>
> The motion was agreed to.
>
> Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Holifield, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 16916, making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes, had come to no resolution thereon.
>
> The Speaker announced his signature to enrolled bill of the Senate of the following title:
>
>> S. 3690. An act to increase the pay of Federal employees.
>
> MR. FLOOD: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 16916) making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes.
>
> THE SPEAKER:(16) The question is on the motion offered by the gentleman from Pennsylvania.
>
> The motion was agreed to.
>
> Accordingly the House resolved into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 16916, with Mr. Holifield in the chair.

Motion to Rise and Resume on Day Certain

§ 22.2 A motion that the Committee rise and resume its sitting on a

---

13. 8 Cannon's Precedents § 2329.
14. See § 23.12, infra.
15. 116 CONG. REC. 11654, 91st Cong. 2d Sess.
16. John W. McCormack (Mass.).

day certain is not in order in the Committee of the Whole.

On May 25, 1967,(17) during consideration of S. 1432, amending the Universal Military Training and Service Act, Chairman Robert L. F. Sikes, of Florida, ruled out a motion that the Committee rise and resume its sitting on a day certain.

Mr. [William H.] Bates [of Massachusetts]: Mr. Chairman, I yield 5 minutes to the gentleman from Maryland [Mr. Rogers C. B. Morton].

Mr. Morton: Mr. Chairman, I open my remarks with a parliamentary inquiry.

The Chairman: The gentleman will state his parliamentary inquiry.

Mr. Morton: Would it be in order to move that the Committee rise and sit again on Wednesday, the 31st of May?

The Chairman: At this time that motion would not be order.

Requirement That Motion Be Written

§ 22.3 All motions must be in writing if the demand is made, and this applies to a motion that the Committee of the Whole do now rise.

On June 13, 1947,(18) during consideration of H.R. 3342, the cultural relations program of the State Department, Chairman Thomas A. Jenkins, of Ohio, sustained a point of order against a motion, made orally, to rise.

Mr. [Daniel A.] Reed of New York: Mr. Chairman, I move that the Committee do now rise.

Mr. [Karl E.] Mundt [of South Dakota]: Mr. Chairman, I make the point of order that the motion has not been submitted in writing.

Mr. Reed of New York: Mr. Chairman, a preferential motion of this character does not have to be submitted in writing.

The Chairman: The point of order is sustained.

Debatability

§ 22.4 The motion that the Committee rise is not debatable.

On Apr. 8, 1964,(19) during consideration of H.R. 10222, the Food Stamp Act of 1964, Chairman Phillip M. Landrum, of Georgia, indicated that the motion that the Committee of the Whole rise is not debatable.

---

17. 113 Cong. Rec. 14121, 90th Cong. 1st Sess.

18. 93 Cong. Rec. 6998, 80th Cong. 1st Sess. See 96 Cong. Rec. 1693, 81st Cong. 2d Sess., Feb. 8, 1950, for another illustration of this principle.

19. 110 Cong. Rec. 7298, 88th Cong. 2d Sess. See 94 Cong. Rec. 8521, 80th Cong. 2d Sess., June 16, 1948; 89 Cong. Rec. 1167, 78th Cong. 1st Sess., Feb. 19, 1943; and 81 Cong. Rec. 7686–97, 75th Cong. 1st Sess., July 27, 1937, for other examples of this principle.

THE CHAIRMAN: The Chair recognizes the gentleman from Iowa [Mr. Jensen].

MR. [BEN F.] JENSEN: Mr. Chairman, I move that the Committee do now rise out of further respect for one of the greatest Americans, Gen. Douglas MacArthur.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Iowa [Mr. Jensen].

MR. JENSEN: Mr. Chairman, I demand tellers. It is disgraceful to have this sort of thing going on while General MacArthur is lying here in the Capitol.

THE CHAIRMAN: The Chair will inform the gentleman that a vote on his motion is being taken. He is not recognized to make a speech.

Control by Floor Manager

§ 22.5 It is within the discretion of the Member handling a bill before the Committee of the Whole to move that the Committee rise.

On June 16, 1948,(20) during consideration of H.R. 6401, the Selective Service Act of 1948, Chairman Francis H. Case, of South Dakota, indicated the Member handling a bill in the Committee of the Whole always has the discretion to move that the Committee rise.

MR. [WALTER G.] ANDREWS of New York: Mr. Chairman, in view of the fact that two or three Members who have time are not here, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York [Mr. Andrews].

MR. [GEORGE A.] SMATHERS [of Florida]: Mr. Chairman, I would like to be heard on that.

THE CHAIRMAN: That is not a debatable motion. It is always within the discretion of the gentleman handling the bill to move that the Committee rise.

Establishing Time to Rise

§ 22.6 Prior to resolving into the Committee of the Whole, the House by unanimous consent may limit general debate to a time certain and provide that the Committee will rise at the conclusion of general debate.

On Apr. 9, 1963,(21) during consideration of H.R. 5517, making supplemental appropriations for the 1963 fiscal year, the House by unanimous consent limited general debate and provided for a time for the Committee to rise.

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5517, making supplemental appropriations for the fiscal year ending

---

20. 94 CONG. REC. 8521, 80th Cong. 2d Sess.

21. 109 CONG. REC. 6044, 88th Cong. 1st Sess.

June 30, 1963, and for other purposes; and, pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be concluded not later than 5 p.m. today, one-half of the time to be controlled by the gentleman from Ohio [Mr. Bow], and one-half by myself, and that at the conclusion of general debate today the Committee will rise. . . .

THE SPEAKER:(22) Is there objection to the request of the gentleman from Texas?

There was no objection.

Quorum Requirement

§ 22.7 In Committee of the Whole a quorum is not required on a motion to rise.

On June 4, 1948,(23) during consideration of H.R. 6801, the foreign aid appropriations bill, Chairman W. Sterling Cole, of Maryland, ruled on the necessity for a quorum at the time.

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I move that the Committee rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York.

MR. TABER: Mr. Chairman, on that I demand tellers.

MR. COOLEY: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. COOLEY: Is the motion of the gentleman from New York in order pending the determination as regards the presence of a quorum?

THE CHAIRMAN: The gentleman's motion is in order. A quorum is not necessary upon a motion that the Committee rise.

Voting on the Motion

§ 22.8 The Committee of the Whole on a division or teller vote may reject a motion made by the Member in charge of a bill that the Committee rise.

On June 16, 1948,(1) during consideration of H.R. 6401, the Selective Service Act of 1948, the Committee of the Whole rejected a motion made by the Member in

---

22. John W. McCormack (Mass.).

23. 94 CONG. REC. 7178, 80th Cong. 2d Sess. See also 118 CONG. REC. 19353, 92d Cong. 2d Sess., May 31, 1972.

Parliamentarian's Note: Rule XV clause 6(b), *House Rules and Manual* § 774(c) (1979) now provides that a "quorum shall not be required in the Committee of the Whole for agreement to a motion that the Committee rise." The subject of quorums is discussed more fully in Ch. 20, infra.

1. 94 Cong. REC. 8521, 80th Cong. 2d Sess.

charge of the bill that the Committee rise.

> Mr. [Walter G.] Andrews of New York: Mr. Chairman, in view of the fact that two or three Members who have time are not here, I move that the Committee do now rise. . . .
>
> The Chairman:(2) The question is on the motion offered by the gentleman from New York [Mr. Andrews] that the Committee do now rise.
>
> The question was taken; and on a division (demanded by Mr. Andrews of New York) there were—ayes 79, noes 94.
>
> Mr. Andrews of New York: Mr. Chairman, I ask for tellers.
>
> Tellers were ordered, and the Chairman appointed as tellers Mr. Andrews of New York and Mr. Smathers.
>
> The Committee again divided; and the tellers reported there were—ayes 76, noes 139.
>
> So the motion was rejected.

Withdrawal

§ 22.9 A privileged motion that the Committee of the Whole rise may be withdrawn by unanimous consent.

On Oct. 28, 1971,(3) during consideration of H.R. 7248, to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education, the motion that the Committee of the Whole rise was withdrawn by unanimous consent.

> Mr. [Thomas M.] Pelly [of Washington]: Mr. Chairman, I move that the Committee do now rise.
>
> The Chairman:(4) The gentleman is seeking to propound a parliamentary inquiry?
>
> Mr. Pelly: I am not, Mr. Chairman. I have a privileged motion. I move that the Committee do now rise. . . .
>
> The Chairman: Does the gentleman from Washington insist upon his motion?
>
> Mr. Pelly: Mr. Chairman, I withdraw my motion.
>
> The Chairman: Without objection, the motion is withdrawn.
>
> There was no objection.

§ 23. —When in Order

The motion to rise is preferential(5) and is in order pending a count of a quorum(6) or pending a decision on a point of order.(7) It is also in order after tellers have been ordered and appointed, though not after the count has begun.(8) However, the motion will not lie during a division[9] or while another Member has the floor in debate.[10] A decision by the Chairman that a motion to rise was in order after a Member had been recognized for debate but before he had begun to speak was overruled by the Committee.[11]

---

(2) Francis H. Case (S.D.).

(3) 117 Cong. Rec. 38071, 92d Cong. 1st Sess.

(4) James C. Wright, Jr. (Tex.).

(5) § 23.1, infra.

(6) § 23.5, infra.

(7) §§ 23.7, 23.8, infra.

(8) § 23.9, infra; compare 5 Hinds' Precedents § 6001 and 4 Hinds' Precedents § 4773, which indicate that, tellers having been ordered and appointed, the motion to rise is not in order pending the taking of the vote.

The point of order that the motion is dilatory may be raised in the Committee of the Whole.[12]

When provision is made by special order for the automatic rising of the Committee of the Whole at a designated time, a motion is required to rise before that time, and is in order.[13] However, when the hour previously fixed for adjournment of the House arrives while the Committee of the Whole is still in session, the Chairman may direct the Committee to rise and make his report as though the Committee had risen on motion in the regular way.[14] And when the House has limited general debate to a time certain and provided for the Committee of the Whole to rise at the conclusion of that time, the Committee then rises without a motion or vote.[15]

The motion to rise and report has precedence over the motion to take up another bill.[16] The motion to amend has precedence over the motion to rise and report a bill with recommendations[17] but not over the simple motion to rise.[18]

The motion to rise and report with the recommendation that the bill be recommitted takes precedence of the motion to rise and report with the recommendation that the bill pass,[19] when the Committee of the Whole is operating under the general rules of the House.

Privileged Nature

§ 23.1 The motion that the Committee of the Whole rise is privileged.

On July 23, 1970,[20] during consideration of H.R. 18515, providing appropriations for the Departments of Labor and Health, Education, and Welfare for fiscal year 1971, Chairman Chet Holifield, of California, referred to the privileged nature of the motion that the Committee of the Whole rise.

---

[9] § 23.11, infra.

[10] § 23.6, infra; 4 Hinds' Precedents § 4769; and 8 Cannon's Precedents § 2325.

[11] 8 Cannon's Precedents § 2370.

[12] 8 Cannon's Precedents § 2800.

[13] 7 Cannon's Precedents § 793.

[14] 4 Hinds' Precedents § 4785.

[15] See § 21.3, supra.

[16] 4 Hinds' Precedents § 4766.

[17] § 23.14, infra.

[18] 4 Hinds' Precedents § 4770.

[19] 8 Cannon's Precedents § 2329.

[20] 116 CONG. REC. 25628, 91st Cong. 2d Sess.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, a parliamentary inquiry.

Is it in order for me to move that the Committee do now rise?

THE CHAIRMAN: It is a privileged motion.

MR. YATES: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Illinois.

The question was taken; and the Chairman announced that the noes appeared to have it.

MR. YATES: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Yates and Mr. Flood.

The Committee divided, and the tellers reported that there were—ayes 8, noes 93.

So the motion was rejected.

Parliamentarian's Note: While a motion that the Committee of the Whole rise is privileged, it cannot be made while another Member has the floor, but can be offered any time when the proponent thereof can secure the floor in his own right.

§ 23.2 A motion that the Committee of the Whole rise is of high privilege, and may be offered by a Member who holds the floor by virtue of having offered an amendment.

On Nov. 15, 1967,[1] during consideration of S. 2388, Economic Opportunity Act Amendments of 1967, Chairman John J. Rooney, of New York, made reference to the right of a Member who holds the floor by virtue of having offered an amendment to offer the privileged motion that the Committee rise.

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Jones of Missouri: On page 219 strike out all of line 17 through line 24.

MR. JONES of Missouri: Mr. Chairman, I make a parliamentary inquiry at this time.

THE CHAIRMAN: The gentleman will state it.

MR. JONES of Missouri: Would I be in order to make a motion that the Committee do now rise so that if we could get back into the House I could make a motion to adjourn?

THE CHAIRMAN: A motion that the Committee do now rise is a privileged motion.

MR. JONES of Missouri: Mr. Chairman, I move that the Committee do now rise.

---

[1] 113 CONG. REC. 32694, 90th Cong. 1st Sess.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Missouri.

The motion was rejected.

§ 23.3 A motion that the Committee rise is privileged during consideration of a bill under the five-minute rule and takes precedence over pending amendments.

On Apr. 30, 1970,[2] during consideration of H.R. 17123, the military procurement authorization for fiscal year 1971, Chairman Daniel D. Rostenkowski, of Illinois, indicated that the motion that the Committee rise was privileged and would take precedence over certain pending amendments.

Parliamentarian's Note: During consideration of this measure under the five-minute rule, amendments were offered with respect to use of funds to support ground combat troops in Cambodia, Laos, and Thailand. When it became apparent during lengthy debate on these amendments that many Members wished to defer action on the amendment until the President had concluded a policy statement on Southeast Asia which had been scheduled for delivery on nationwide television that evening, several Members approached the manager of the bill, L. Mendel Rivers, of South Carolina, Chairman of the Committee on Armed Services, to urge the Committee's rising without completing action on the bill. When the Chairman declined to make the motion, Mr. Edward P. Boland, of Massachusetts, who was not on the Committee on Armed Services, sought recognition to make the motion.

MR. BOLAND: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. BOLAND: Mr. Chairman, is it in order to move that the Committee do now rise?

THE CHAIRMAN: Yes; it is in order.

MR. BOLAND: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Massachusetts.

MR. RIVERS: Mr. Chairman, on that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Boland and Mr. Rivers.

The Committee divided, and the tellers reported that there were—ayes 131, noes 100.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Rostenkowski, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes, had come to no resolution thereon.

---

[2] 116 CONG. REC. 13784, 91st Cong. 2d Sess.

§ 23.4 The motion that the Committee of the Whole rise is privileged and in order notwithstanding the announcement of an "informal agreement" among floor managers of a bill with respect to concluding consideration of the bill on that day at a different time.

On Oct. 28, 1971,[3] during consideration of H.R. 7248, to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education, Chairman James C. Wright, Jr., of Texas, refused to entertain a parliamentary inquiry as to whether the motion that the Committee of the Whole rise would be in order notwithstanding an informal agreement to conclude consideration of a bill on that day at a different time.

Mrs. [Edith S.] Green of Oregon (during the reading): Mr. Chairman, I ask unanimous consent, that title VIII be considered as read, printed in the Record, and open to amendment at any point.

The Chairman: Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

Mrs. Green of Oregon: Mr. Chairman, I move that the Committee do now rise. . . .

Mr. [Roman C.] Pucinski [of Illinois]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Pucinski: It was my impression that earlier today the Chair stated the agreement we had was that we were going to go through title VIII or until 6 o'clock, whichever came later. I was under the impression that that was the agreement, so a number of members of the Veterans' Affairs Committee have remained since we have an amendment to title VIII. I just wonder what happened to that agreement.

The Chairman: The Chair will state to the gentleman that the gentlewoman from Oregon has made a motion that the Committee do now rise. That is a privileged motion, that the Chair must put the motion.

Mr. Pucinski: Mr. Chairman, a further parliamentary inquiry.

The Chairman: The gentleman will state it.

---

[3] 117 Cong. Rec. 38078, 92d Cong. 1st Sess.

MR. PUCINSKI: It is correct, then, to assume that the motion does somewhat contravene and contradict the agreement that was made?

THE CHAIRMAN: The Chair cannot entertain that as a parliamentary inquiry.

The question is on the motion that the Committee do now rise.

The motion was agreed to.

Pending Count of Quorum

§ 23.5 Pending the Chair's count of a quorum, a motion that the Committee of the Whole rise is in order; that motion does not require a quorum for its adoption.

On June 4, 1948,(4) during consideration of H.R. 6801, the foreign aid appropriations bill, Chairman W. Sterling Cole, of New York, stated that the motion to rise is in order pending the Chair's count of a quorum.

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I move that the Committee rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York.

MR. TABER: Mr. Chairman, on that I demand tellers.

MR. COOLEY: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. COOLEY: Is the motion of the gentleman from New York in order pending the determination as regards the presence of a quorum?

THE CHAIRMAN: The gentleman's motion is in order. A quorum is not necessary upon a motion that the Committee rise.

Tellers were ordered, and the Chairman appointed as tellers Mr. Taber and Mr. Cannon.

The Committee divided; and the tellers reported that there were—aye 1, noes 64.

So the motion was rejected.

While Another Member Has Floor

§ 23.6 In the Committee of the Whole a Member may not move to rise while another has the floor.

On Mar. 12, 1964,(5) during consideration of H.R. 8986, the pay bill for federal employees, Chairman Chet Holifield, of California, indicated that a Member may not move, while another Member has

---

4. 94 CONG. REC. 7178, 80th Cong. 2d Sess.

Parliamentarian's Note: This principle is now expressly provided under Rule XV clause 6(b), *House Rules and Manual* § 774(c) (1979).

5. 110 CONG. REC. 5101, 88th Cong. 2d Sess.

the floor, that the Committee of the Whole rise, unless time is yielded to him for that purpose.

> MR. [ROBERT J.] CORBETT [of Pennsylvania]: I was going to try to explain the amendment a little bit, but the gentleman is using up all my time. Go ahead.
>
> THE CHAIRMAN: Does the gentleman yield for a parliamentary inquiry?
>
> MR. CORBETT: I yield to the gentleman.
>
> THE CHAIRMAN: The gentleman is recognized.
>
> MR. [AUGUST E.] JOHANSEN [of Michigan]: Would a motion that the Committee rise be in order at this time?
>
> THE CHAIRMAN: If the gentleman from Pennsylvania yields for that purpose.
>
> MR. CORBETT: Mr. Chairman, I cannot yield further. I probably only have 3 minutes left.

Pending Decision on Point of Order

§ 23.7 In the Committee of the Whole a motion that the Committee rise may be entertained pending a decision of the Chair on a point of order.

On June 4, 1957,(6) during consideration of H.R. 6974, extending the Agricultural Trade Development and Assistance Act of 1954, Chairman Brooks Hays, of Arkansas, stated that a motion that the Committee of the Whole rise was made pending the Chair's decision on a point of order.(7)

§ 23.8 A point of order having been raised in the Committee of the Whole against a bill reported by a committee without jurisdiction to propose an appropriation under Rule XXI, the Committee rose pending decision by the Chair on the point of order.

On June 4, 1957,(8) during consideration of H.R. 6974, extending the Agricultural Trade Development and Assistance Act of 1954, the Committee of the Whole rose pending a decision by the Chairman on a point of order that the bill which proposed an appropriation had been reported by a committee contrary to Rule XXI clause 4.(9)

> MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I rise to a point of order against the entire bill, H.R. 6974, on the ground that it is a bill from a committee not having authority to report an appropriation. . . .

---

6. 103 CONG. REC. 8298, 8318, 8319, 85th Cong. 1st Sess. See 105 CONG. REC. 9027, 9028, 86th Cong. 1st Sess., May 25, 1959, for another illustration of this principle.

7. See § 23.8, infra, for the proceedings of this date.

8. 103 CONG. REC. 8298, 8318, 8319, 85th Cong. 1st Sess.

9. See Rule XXI clause 5, *House Rules and Manual* § 846 (1979).

MR. [HAROLD D.] COOLEY [of North Carolina]: . . . I am a little bit apprehensive that the point of order may be sustained, if the Chair is called upon to rule on it. But, I think it would be very unfortunate for us to delay final action on the bill, and in the circumstances we have no other alternative other than to move that the Committee do now rise, and so, Mr. Chairman, I make that motion.

THE CHAIRMAN:[10] The Chair is prepared to rule on the point of order, but the motion offered by the gentleman from North Carolina that the Committee do now rise is in order, and the Chair will put the question.

The question is on the motion offered by the gentleman from North Carolina.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Hays of Arkansas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6974) to extend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes, had come to no resolution thereon.

Parliamentarian's Note: In this case the language of the bill was in violation of the provisions of then Rule XXI clause 4 (now clause 5). The Member in charge of the bill moved that the Committee rise to permit application to the Committee on Rules for a resolution waiving points of order against the bill. The rule granted was House Resolution 274.

Before Tellers Begin Count

§ 23.9 A vote by tellers having been ordered and appointed in the Committee of the Whole, a motion that the committee rise is in order if the tellers have not taken their places and the count has not begun.

On Mar. 12, 1942,[11] during consideration of H.R. 6709, the agriculture [illegible]iations bill for fiscal year [illegible], Chairman Robert Ramspeck, of Georgia, indicated that a motion that the Committee of the Whole rise is in order after a vote by tellers has been ordered and tellers have been appointed if the tellers have not taken their places and begun the count.

THE CHAIRMAN: The gentleman from South Dakota [Mr. Case] offers a substitute for the Dirksen amendment. The Clerk will report the substitute.

The Clerk read as follows:

> Amendment offered by Mr. Case of South Dakota as a substitute for the amendment offered by Mr. Dirksen: Page 80, line 21, strike out

---

[10] Brooks Hays (Ark.).

[11] 88 CONG. REC. 2374, 77th Cong. 2d Sess. See 88 CONG. REC. 5169, 77th Cong. 2d Sess., June 11, 1942, for another illustration of this principle.

"$45,000,000" and insert "$25,000,000."

The Chairman: The question is on the substitute offered by the gentleman from South Dakota.

The question was taken; and the Chair being in doubt the Committee divided, and there were—ayes 84, noes 88.

Mr. [Francis H.] Case of South Dakota: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. Case of South Dakota and Mr. Tarver.

Mr. [Malcolm C.] Tarver [of Georgia]: Mr. Chairman, I move that the Committee do now rise.

Mr. [Joseph W.] Martin [Jr.] of Massachusetts: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Martin of Massachusetts: The gentleman cannot interrupt a vote.

The Chairman: The vote has not started.

Mr. Martin of Massachusetts: We had already started to vote on the substitute and the Chair had announced the vote as 84 to 88.

The Chairman: The tellers had not taken their places.

The point of order is overruled.

Mr. Martin of Massachusetts: Mr. Chairman, we had started the vote when the first voice vote was taken.

The Chairman: The point of order is overruled.

The gentleman from Georgia moves that the Committee do now rise.

The question is on the motion.

During Time for Debate

§ 23.10 The motion to rise is in order after agreement to a motion to limit debate on an amendment.

On Feb. 8, 1950,(12) during consideration of H.R. 2945, to adjust postal rates, Chairman Chet Holifield, of California, indicated that a motion that the Committee of the Whole rise was in order after agreement to a time limit on debate on an amendment.

Mr. [Thomas J.] Murray of Tennessee: Mr. Chairman, I move that all debate on the committee substitute and all amendments thereto close in 20 minutes.

The Chairman: The question is on the motion.

The question was taken; and on a division (demanded by Mr. Sutton) there were—ayes 99, noes 76.

Mr. [Robert J.] Corbett [of Pennsylvania]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Murray of Tennessee and Mr. Corbett.

The Committee again divided; and the tellers reported there were—ayes 133, noes 72.

So the motion was agreed to.

Mr. [James G.] Fulton [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

---

12. 96 Cong. Rec. 1690, 81st Cong. 2d Sess.

Mr. Fulton: Is a motion that the Committee do now rise in order at this time?

The Chairman: Such a motion would be in order.

Mr. Fulton: Mr. Chairman, I move that the Committee do now rise.

The question was taken; and on a division (demanded by Mr. Fulton) there were—ayes 76, noes 125.

Mr. Fulton: Mr. Chairman, I ask for tellers.

Tellers were refused.

So the motion was rejected.

During Division Vote

§ 23.11 The motion that the Committee of the Whole rise is not preferential while the Committee is dividing on a question.

On Dec. 8, 1944,(13) during a division vote on a motion to close debate on H.R. 5587, the first supplemental appropriations bill, 1944, Chairman Herbert C. Bonner, of North Carolina, refused to recognize a Member for a motion that the Committee of the Whole rise.

Mr. [John] Taber [of New York]: Mr. Chairman, I move that all debate on this amendment do now close.

Mr. [John E.] Rankin [of Mississippi]: Mr. Chairman, I trust the gentleman will not press that motion.

The Chairman: The question is on the motion offered by the gentleman from New York [Mr. Taber].

The question was taken, and the Chair announced that the ayes had it.

Mr. [Clarence] Cannon of Missouri: Mr, Chairman, I ask for a division.

The Chairman: Those in favor of the motion will rise and be counted.

Mr. Rankin: Mr. Chairman, I move that the Committee do now rise.

The Chairman: The Chair calls the attention of the gentleman to the fact that we are in the middle of a vote.

Mr. Rankin: Mr. Chairman, I am offering a preferential motion. I move that the Committee do now rise.

The Chairman: The Chair will ask the gentleman to reconsider, because we are in the midst of taking a vote on a motion at this time.

Mr. Rankin: Mr. Chairman, I am offering a preferential motion now.

The Chairman: The Chair cannot recognize the gentleman at this time for that purpose.

The question is on the motion offered by the gentleman from New York [Mr. Taber].

During Consideration of Bill Under Special Rule

§ 23.12 A motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that it be recommitted to the committee from which reported is not in order if the bill is being considered under a special rule which provides that, after consideration and upon the automatic rising of the Committee of the Whole, the previous ques-

---

13. 90 Cong. Rec. 9066, 78th Cong. 2d Sess.

tion shall be considered as ordered on the bill and amendments thereto to final passage.

On Aug. 10, 1950,[14] the Committee of the Whole was considering H.R. 9176, the Defense Production Act of 1950, under a special rule which provided as follows:[15]

> *Resolved,* That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 9176) to establish a system of priorities and allocations for materials and facilities . . . and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 1 day, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute committee amendment recommended by the Committee on Banking and Currency now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of such consideration the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

During the proceedings, Mr. John E. Rankin, of Mississippi, made a motion that the Committee rise and report the bill back to the House with the recommendation that it be recommitted. The Chairman, Howard W. Smith, of Virginia, in ruling on a point of order against the motion, indicated that the motion was precluded under the terms of the special rule. The motion and ruling were as follows:

> MR. RANKIN: Mr. Chairman, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Rankin moves that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further hearings and study.
>
> MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, a point of order.
>
> THE CHAIRMAN: The gentleman will state it.

---

[14] 96 CONG. REC. 12219, 81st Cong. 2d Sess.

[15] See H. Res. 740, 96 CONG. REC. 11506, 81st Cong. 2d Sess., Aug. 1, 1950.

MR. PATMAN: Mr. Chairman, I make the point of order that this being a straight motion to recommit, without instructions, it is not permissible under the rule under which we are considering the bill in Committee.

THE CHAIRMAN: The Chair is ready to rule.

That motion is not in order in Committee of the Whole, and the Chair sustains the point of order.

MR. RANKIN: Mr. Chairman, it is in order to make a motion that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further study and hearing.

THE CHAIRMAN: In the consideration of this bill the Committee of the Whole is operating under a special rule which lays down the conditions under which the bill is to be considered. The motion of the gentleman from Mississippi is not in order at this time.

Parliamentarian's Note: An earlier precedent (see 8 Cannon's Precedents § 2375) indicated a contrary view. The Chair in that instance held that a special rule, whose provisions were not materially different from those of House Resolution 740, above, did not deprive the Committee of the Whole of the right to report with a recommendation to recommit the bill under consideration at the end of reading for amendment. The Chair on that occasion, however, incorrectly overruled a point of order made by Mr. Clarence Cannon, of Missouri, who argued that at the conclusion of the amendment process the Committee of the Whole rises automatically under the terms of such a special rule and reports the bill to the House with adopted amendments, and that a motion to that end is not necessary. The modern practice, as shown in the ruling of Chairman Smith, above, is to disallow motions in Committee of the Whole that, if adopted, would effectively contravene the terms of the special rule that order the previous question on the bill and amendments thereto, to final passage at the conclusion of the amendment process under the five-minute rule, and that protect the motion to recommit, as guaranteed by clause 4 Rule XVI, only after amendments are disposed of in the House and pending final passage.

Precedence Over Motion to Strike Enacting Clause

§ 23.13 A motion that the Committee of the Whole do now rise takes precedence over a pending motion to rise and report with the recommendation that the enacting clause be stricken out.

On May 24, 1967,(1) during consideration of H.R. 7819, the Elementary and Secondary Education Act Amendments of 1967, Chairman Charles M. Price, of Illinois, addressed the question whether the motion that the Committee of the Whole rise takes precedence over a pending motion to rise and report with the recommendation that the enacting clause be stricken out.

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Hays moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. . . .

THE CHAIRMAN: The question is on the preferential motion offered by the gentleman from Ohio [Mr. Hays].

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Chairman, I move that the Committe do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Kentucky [Mr. Perkins].

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. JONES of Missouri: Does not a preferential motion require a vote before the Chair can accept another motion?

THE CHAIRMAN: No. A motion to rise takes precedence over any other motion.

The question is on the motion offered by the gentleman from Kentucky [Mr. Perkins].

MR. [LESLIE C.] ARENDS [of Illinois]: Mr. Chairman, on that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Perkins and Mr. Goodell.

The Committee divided and the tellers reported that there were—ayes 127, noes 186.

So the motion was rejected.

THE CHAIRMAN: The question is on the preferential motion.

MR. JONES of Missouri: Mr. Chairman I demand tellers.

Tellers were refused.

THE CHAIRMAN: The question is on the preferential motion.

The preferential motion was rejected.

Precedence of Motion to Amend Over Motion to Rise and Report

§ 23.14 A motion to amend in the Committee of the Whole takes precedence over a motion to rise and report a bill with recommendations.

On July 27, 1937,(2) during consideration of H.R. 7730, to au-

---

1. 113 CONG. REC. 13876, 13877, 90th Cong. 1st Sess. See 82 CONG. REC. 1600, 75th Cong. 2d Sess., Dec. 15, 1937, for another illustration of this principle.

2. 81 CONG. REC. 7699, 75th Cong. 1st Sess.

thorize the President to appoint administrative assistants, Chairman Wright Patman, of Texas, ruled on the precedence of a motion to amend over a motion to rise.

Mr. Robinson of Utah and Mr. Collins rose.

MR. [J. W.] ROBINSON of Utah: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the motion that it is not in order at this stage of the proceedings.

THE CHAIRMAN: The Chair may state that motions to amend take precedence over a motion that the Committee rise.

§ 24. — Offering the Motion

A Member with the floor generally yields for debate only, since in yielding for a motion or amendment he may lose the floor. The principle that a Member may not, in time yielded for debate, make a motion to rise is based on the consideration that, if amendments or motions were allowed in time yielded for debate, control would shift and the Chair would be deprived of his power of recognition. The subject of yielding time in debate and what may be accomplished during yielded time is taken up in greater detail in the chapter on Consideration and Debate, Ch. 29, infra.

During Offering of Amendment

§ 24.1 A Member recognized to offer and debate an amendment may, during his five minutes, move that the Committee rise.

On Nov. 15, 1967,(3) during consideration of S. 2388, the Economic Opportunity Act Amendments of 1967, a Member recognized to offer and debate an amendment was permitted, during his five minutes, to move that the Committee of the Whole rise.

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Jones of Missouri: On page 219 strike out all of line 17 through line 24.

MR. JONES of Missouri: Mr. Chairman, I make a parliamentary inquiry at this time.

THE CHAIRMAN:(4) The gentleman will state it.

MR. JONES of Missouri: Would I be in order to make a motion that the Committee do now rise so that if we

---

3. 113 CONG. REC. 32694, 90th Cong. 1st Sess.
4. John J. Rooney (N.Y.).

could get back into the House I could make a motion to adjourn?

The Chairman: A motion that the Committee do now rise is a privileged motion.

Mr. Jones of Missouri: Mr. Chairman, I move that the Committee do now rise.

The Chairman: The question is on the motion offered by the gentleman from Missouri.

The motion was rejected.

During Yielded Time

§ 24.2 A Member may not in time yielded him for general debate move that the Committee of the Whole rise, nor may a Member who has been yielded time for debate yield to another for that motion. (The Chair was sustained on appeal.)

On Feb. 22, 1950, Calendar Wednesday,(5) during consideration of H.R. 4453, the Federal Fair Employment Practice Act, Chairman Francis E. Walter, of Pennsylvania, ruled that a Member could not in time yielded to him for general debate move that the Committee of the Whole rise. It was also ruled that a Member who had been yielded general debate time could not yield to another for that motion.

Mr. [Adam C.] Powell [Jr., of New York]: Mr. Chairman, I yield the minute that the gentleman from Pennsylvania [Mr. Kelley] yielded back to the gentleman from Virginia [Mr. Smith] for debate.

Mr. [Howard W.] Smith of Virginia: Mr. Chairman, we have been in session for a long time. It is now almost 7 o'clock, and it is obvious this bill cannot be seriously considered and concluded during this session of the House. I think most of the Members are very tired. It is about time we were getting away from here. I think a good many of them are ready to get away.

Mr. [Franklin D.] Roosevelt [Jr., of New York]: Mr. Chairman, will the gentleman yield?

Mr. Smith of Virginia: I yield to the gentleman from New York.

Mr. Roosevelt: I would like to ask the gentleman if he realizes I am feeling very wide awake and I have no desire to leave until we complete the business of the day.

Mr. Smith of Virginia: The gentleman is a good deal younger than some of us and I congratulate him. I admire him, I like to see him up here jumping around and going on. But I think it is about time we quit. Therefore, Mr. Chairman, I move the Committee do now rise.

Mr. Powell: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Powell: Mr. Chairman, I yielded 1 minute to the gentleman from Virginia only for debate.

Mr. Smith of Virginia: Mr. Chairman, I ask recognition on my own to offer a preferential motion.

---

(5) 96 Cong. Rec. 2178, 81st Cong. 2d Sess.

The Chairman: The gentleman from New York yielded to the gentleman from Virginia for a particular purpose. The motion offered by the gentleman from Virginia is not in order at this time.

Mr. Smith of Virginia: Mr. Chairman, I now move, on my own time, that the Committee do now rise.

The Chairman: The gentleman from Virginia has no time. The gentleman from New York and the gentleman from Pennsylvania have control of the time.

Mr. Powell: Mr. Chairman, I now yield 4 minutes to the gentleman from South Carolina [Mr. Sims] for debate.

Mr. Smith of Virginia: Mr. Chairman, will the gentleman yield?

Mr. [Hugo S.] Sims [Jr., of South Carolina]: I yield to the gentleman from Virginia.

Mr. Smith of Virginia: Mr. Chairman, having some time of my own, I now move that the Committee do now rise.

The Chairman: The gentleman from South Carolina was yielded 4 minutes time for debate. He in turn yielded to the gentleman from Virginia but he cannot yield to the gentleman from Virginia for the purpose of offering that motion.

An appeal was then taken from the ruling of the Chair and the ruling was sustained on a teller vote.

§ 25. —Proceedings Subsequent to Action on Motion

Reporting to House

§ 25.1 Where the Committee of the Whole votes merely that the Committee rise, the Chairman reports to the House that the Committee has considered a certain bill and has come to no conclusion thereon; he does not under this procedure report the bill with amendments back to the House.

On Aug. 24, 1949,[6] during consideration of H.R. 6070, to amend the National Housing Act, and after agreement to a particular amendment, Chairman Mike Mansfield, of Montana, ruled on the procedure to be followed in reporting to the House where the Committee of the Whole votes to rise.

> Mr. [Brent] Spence [of Kentucky]: Mr. Chairman, I move that the Committee do now rise.
>
> Mr. [Jesse P.] Wolcott [of Michigan]: Mr. Speaker, a parliamentary inquiry.
>
> The Chairman: The gentleman will state it.
>
> Mr. Wolcott: If the Committee rises at the present time will it report the bill back to the House with amendments, or will it report that it has

---

[6] 95 Cong. Rec. 12186, 81st Cong. 1st Sess.

come to no conclusion thereon? What is the situation?

The Chairman: This is simply a motion that the Committee rise. There are several amendments yet to be offered. . . .

The Committee again divided, and the tellers reported that there were—ayes 86, noes 83.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. Priest, having assumed the chair, Mr. Mansfield, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6070) to amend the National Housing Act, as amended, and for other purposes, had come to no resolution thereon.

Point of No Quorum

§ 25.2 A point of order that no quorum is present is not in order after the Committee of the Whole has voted to rise.

On Mar. 9, 1936,(7) during consideration of H.R. 11563, and after the Committee of the Whole had voted to rise, Chairman William B. Umstead, of North Carolina, ruled that a point of order that a quorum was not present was not in order.

Mr. [Thomas L.] Blanton [of Texas] (interrupting the reading of the bill): Mr. Chairman, I move that the Committee do now rise.

The question was taken.

Mr. Blanton: Mr. Chairman, I ask for a division.

The Committee divided; and there were—ayes 40, noes 33,

Mr. [Henry] Ellenbogen [of Pennsylvania]: Mr. Chairman, I make the point of order there is not a quorum present.

The Chairman: The Chair will count.

Mr. [John] Taber [of New York]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Taber: Mr. Chairman, I make the point of order that a point of no quorum is not in order after the Committee has determined to rise.

The Chairman: The point of order is sustained. The vote had already been announced.

Division on Amendment After Rejection of Motion

§ 25.3 Where a preferential motion that the Committee of the Whole rise is made and rejected subsequent to a demand for a division vote on an amendment, the division is taken after the rejection of the motion that the Committee rise.

---

7. 80 Cong. Rec. 3459, 74th Cong. 2d Sess.

Note: A quorum is not required on an affirmative vote to rise. The subject of quorums and points of no quorum is treated more fully in Ch. 20, infra.

On June 13, 1947,(8) during consideration of H.R. 3342, relating to the cultural relations program of the State Department, Chairman Thomas A. Jenkins, of Ohio, presiding, a preferential motion that the Committee of the Whole rise was made subsequent to a demand for a division vote on an amendment. The division vote was taken after rejection of the motion to rise.

THE CHAIRMAN: . . . The question is on the amendment offered by the gentleman from Wisconsin [Mr. Keefe].

The question was taken; and Mr. Angell demanded a division.

MR. [DANIEL A.] REED of New York: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Reed of New York moves that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York.

The question was taken; and on a division (demanded by Mr. Rayburn) there were—ayes 93, noes, 95.

MR. REED of New York: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Mundt and Mr. Reed of New York.

The Committee again divided; and the tellers reported that there were—ayes 101, noes 110.

So the motion was rejected.

THE CHAIRMAN: The Chair will state that before the motion was made that the Committee do now rise the question was being taken on the amendment offered by the gentleman from Wisconsin [Mr. Keefe]. There was a voice vote and then a division was requested.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MCCORMACK: The Chair had stated that a standing vote had been requested, but I think the Chair failed to state that the Chair announced the "ayes" had it on the voice vote.

THE CHAIRMAN: No. No announcement was made on the division. The preferential motion intervened.

The question is on the amendment offered by the gentleman from Wisconsin [Mr. Keefe].

The question was taken; and on a division there were—ayes 145, noes 1.

Resolving Back Into Committee After Reporting a Quorum

§ 25.4 Under the former practice, where the Committee of the Whole rose and the Chairman reported to the House that, pursuant to House rule,(9) he had

---

8. 93 CONG. REC. 6998, 80th Cong. 1st Sess.

9. Rule XXIII clause 2, *House Rules and Manual* § 863 (1973).

Note: Clause 2 of Rule XXIII was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979) to permit the Committee to continue its business following the appearance of a quorum so that the Speaker need not take

caused the roll to be called in the Committee to establish the presence of a quorum, the House automatically resolved back into the Committee.

On Apr. 21, 1969,(10) the House automatically resolved into the Committee of the Whole where the Committee rose and the Chairman reported to the House that, pursuant to Rule XXIII clause 2, he caused the roll to be called in Committee, thereby establishing the presence of a quorum.

MR. [FRANK E.] EVANS of Colorado: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:(11) The Chair will count.

Forty Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 514, and finding itself without a quorum, he had directed the roll to be called, when 325 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

On Calendar Wednesday

§ 25.5 On Calendar Wednesday, if the Committee of the Whole during consideration of a bill votes to rise, and the House then rejects a motion to adjourn, Calendar Wednesday business is still before the House; and if the chairman of the committee having the call calls up the same bill, the House automatically resolves itself into the Committee of the Whole and continues consideration of that bill.

On Feb. 22, 1950, Calendar Wednesday,(12) during consideration of H.R. 4453, the Federal Fair Employment Practice Act, Speaker Sam Rayburn, of Texas, presiding, the Committee of the Whole voted to rise; thereafter, the House re-

---

the chair to receive the Committee's report of absentees. Prior to the adoption of this change in the rules, the Committee of the Whole followed the procedure indicated above. Under the new rule, the Committee would still rise if a quorum of the Committee failed to appear. Rule XXIII clause 2(a), *House Rules and Manual* § 863 (1979). The subject of quorums is discussed more fully in Ch. 20, infra.

10. 115 CONG. REC. 9705, 91st Cong. 1st Sess.

11. Charles M. Price (Ill.).

12. 96 CONG. REC. 2238–40, 81st Cong. 2d Sess.

jected a motion to adjourn. The Speaker indicated that the chairman of the committee having the call could call up the same bill, and, if so, that the House would automatically resolve itself into the Committee of the Whole to continue consideration thereof.

Mr. [Paul W.] Shafer [of Michigan]: Mr. Chairman, I offer a preferential motion. I move that the Committee do now rise.

The Chairman:[13] The question is on the motion offered by the gentleman from Michigan [Mr. Shafer].

Mr. [Adam C.] Powell [Jr., of New York]: Mr. Chairman, a parliamentary inquiry. Has any business been transacted in connection with the bill?

The Chairman: That is immaterial. The motion is in order at this time.

The question was taken; and on a division (demanded by Mr. Shafer) there were—ayes 142, noes 164.

Mr. Shafer: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. Shafer and Mr. Powell.

The Committee again divided, and tellers reported that there were—ayes 172, noes 165.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Walter, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4453) to prohibit discrimination in employment because of race, color, religion, or national origin, had come to no resolution thereon.

Mr. [Howard W.] Smith of Virginia: Mr. Speaker, I move that the House do now adjourn.

Mr. Marcantonio and Mr. Biemiller demanded the yeas and nays.

Mr. [Oren] Harris [of Arkansas]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Harris: As I understand, the roll call now is on the motion to adjourn.

The Speaker: That is correct.

Mr. Harris: If the motion to adjourn is not agreed to, then what will be the parliamentary situation?

The Speaker: It will be Calendar Wednesday business.

Mr. Harris: A further parliamentary inquiry, Mr. Speaker.

The Speaker: The gentleman will state it.

Mr. Harris: Do we automatically then go back into Committee?

The Speaker: If the gentleman from Michigan calls the bill up again, yes.

The yeas and nays were ordered.

The question was taken; and there were—yeas 165, nays 239, answered "present" 1, not voting 26, as follows: . . .

Mr. [John] Lesinski [of Michigan]: Mr. Speaker, by direction of the Committee on Education and Labor I call up the bill H.R. 4453.

The Speaker: The Clerk will report the title of the bill.

---

[13] Francis E. Walter (Pa.).

The Clerk read the title of the bill.

Mr. Smith of Virginia: Mr. Speaker, I raise the question of consideration of the bill.

The Speaker: The question is, Will the House consider the bill?

Mr. Smith of Virginia: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 271, nays 133, not voting 27, as follows: . . .

The result of the vote was announced as above recorded.

The Speaker: The House automatically resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the bill.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4453) to prohibit discrimination in employment because of race, color, religion, or national origin, with Mr. Walter in the chair.

The Clerk read the title of the bill.

Parliamentarian's Note: On this Calendar Wednesday, because of numerous roll calls and motions, the House stayed in session until 3:19 a.m. Thursday morning, when the reading of the engrossed copy was demanded. The House then adjourned and met at noon Thursday to read the engrossed copy and pass the bill.

Vacating Vote to Rise

§ 25.6 A Committee of the Whole may by unanimous consent vacate the proceedings by which it has voted to rise.

On Feb. 5, 1936,(14) during consideration of H.R. 10919, the Departments of the Treasury and Post Office appropriations bill, Chairman Arthur H. Greenwood, of Indiana, stated that the Committee of the Whole could by unanimous consent vacate the proceedings by which it had voted to rise.

Mr. [Louis] Ludlow [of Indiana]: Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Mr. Ludlow: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Ludlow: May I ask what is the status of the Committee now?

The Chairman: We are waiting for the Speaker to arrive to report that the Committee has determined to rise.

Mr. Ludlow: Mr. Chairman, I ask unanimous consent that the proceedings by which the Committee determined to rise be vacated.

The Chairman: Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. Ludlow: Mr. Chairman, I yield 5 minutes to the gentleman from Iowa [Mr. Wearin].

---

14. 80 Cong. Rec. 1534, 74th Cong. 2d Sess.

§ 26. Resumption of Business After Committee Resumes Sitting

Continuation of Debate When Committee Resumes Business After Rising

§ 26.1 Where the period of time for debate has been fixed on an amendment in the Committee of the Whole and the Committee rises before the time expires, debate continues when the Committee resumes its deliberations.

On June 16, 1948,(15) the Committee of the Whole was considering H.R. 6401, the Selective Service Act of 1948, under Chairman Francis H. Case, of South Dakota. Time for debate had been fixed on an amendment by the Committee, but a motion to rise was offered before the time had expired.

> Mr. [Walter G.] Andrews of New York: Mr. Chairman, in view of the fact that two or three Members who have time are not here, I move that the Committee do now rise. . . .
>
> Mr. [Vito] Marcantonio [of New York]: Mr. Chairman, a parliamentary inquiry.
>
> The Chairman: The gentleman will state it.
>
> Mr. Marcantonio: Mr. Chairman, under the arrangement entered into limiting debate on this amendment, will the Members who were scheduled to be recognized be recognized when the Committee resumes its deliberations?
>
> The Chairman: They will be recognized, if the Committee should vote to rise, when the Committee meets again.
>
> Mr. Andrews of New York: Mr. Chairman, a parliamentary inquiry.
>
> The Chairman: The gentleman will state it.
>
> Mr. Andrews of New York: My understanding is that all those gentlemen whose names are on the list will be recognized immediately tomorrow.
>
> The Chairman: The statement of the gentleman from New York is correct.

Resumption of Consideration After House Refusal to Strike Enacting Clause

§ 26.2 When a recommendation of the Committee of the Whole that the enacting clause of a bill be stricken is rejected by the House, the House, without motion, resolves itself into the Committee of the Whole for further consideration of the bill.

On May 18, 1960,(16) during consideration of H.R. 5, the Foreign

---

15. 94 Cong. Rec. 8521, 80th Cong. 2d Sess.

16. 106 Cong. Rec. 10577–79, 86th Cong. 2d Sess. See also, for example, 113 Cong. Rec. 8611, 90th Cong. 1st Sess., Apr. 6, 1967 (H.R. 2512, revision of copyright laws); 111 Cong. Rec. 25418, 89th Cong. 1st Sess.,

Investment Incentive Tax Act of 1960, the House without motion resolved itself into the Committee of the Whole for further consideration of the bill after rejecting a Committee recommendation to strike out the enacting clause.

Mr. [H. R.] Gross [of Iowa]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Gross moves that the Committee now rise and report the bill to the House with the recommendation that the enacting clause be stricken out. . . .

The Chairman:(17) . . . The question is on the preferential motion offered by the gentleman from Iowa [Mr. Gross].

The question was taken; and on a division (demanded by Mr. Gross) there were—ayes 101, noes 93.

Mr. [Hale] Boggs [of Louisiana]: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Boggs and Mr. Gross.

The Committee again divided, and the tellers reported there were—ayes 107, noes 101.

So the motion was agreed to.

The Chairman: The Committee will rise.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Natcher, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5) to amend the Internal Revenue Code of 1954 to encourage private investment abroad and thereby promote American industry and reduce Government expenditures for foreign economic assistance, had directed him to report the bill back to the House with the recommendation that the enacting clause be stricken out.

The Speaker:(18) The question is, Shall the enacting clause be stricken out?

Mr. Boggs: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken and there were—yeas 160, nays 232, not voting 40. . . .

So the enacting clause was not stricken out. . . .

The result of the vote was announced as above recorded.

The Committee resumed its sitting.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 5.

The Clerk read the title of the bill.

The Chairman: When the Committee rose, there was pending the amendment offered by the gentleman from Louisiana [Mr. Boggs] to the Committee amendment in the nature of a substitute. The gentleman from Louisiana [Mr. Boggs] had consumed 5 minutes in support of the amendment.

Sept. 29, 1965 (H.R. 4644, providing home rule for the District of Columbia); and 108 Cong. Rec. 22363, 87th Cong. 2d Sess., Oct. 4, 1962 (S. 1123, amending the Fair Labor Standards Act), for other illustrations of this principle.

(17) William H. Natcher (Ky.).

(18) Sam Rayburn (Tex.).

Resumption of Proceedings on Teller Vote

§ 26.3 Where a demand for tellers on a vote in the Committee of the Whole is displaced by a motion to rise before the demand for tellers is seconded, the question on ordering tellers is regarded as pending and is first disposed of when the Committee resumes its session.

On Mar. 9, 1935,(19) a demand for tellers had been displaced by a motion to rise during consideration of H.R. 6021. Chairman Emanuel Celler, of New York, stated that the question on ordering tellers would be regarded as pending and disposed of first after resumption of business in the Committee of the Whole.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Michigan [Mr. Wolcott], which the Clerk will again report.

The Clerk read the Wolcott amendment.

The question was taken; and the Chair being in doubt, the Committee divided, and there were—ayes 118, noes 89.

MR. [FRANKLIN W.] HANCOCK of North Carolina: Mr. Chairman, I demand tellers.

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Chairman, I move that the Committee do now rise.

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Chairman, if the Committee determines to rise, the request for tellers will be considered as pending?

THE CHAIRMAN: The gentleman is correct.

§ 26.4 Under the former practice, it was held that where a point of no quorum was made in the Committee of the Whole and the roll was called while a demand for a teller vote on an amendment was pending, the question of ordering tellers was put immediately after the Committee resumed its sitting.

On May 10, 1946,(20) the Committee of the Whole was considering amendments to H.R. 6335, the Department of the Interior appropriation, 1947, Chairman Jere Cooper, of Tennessee, presiding. A point of no quorum was made and the roll was called while a demand for a teller vote on an amendment was pending. The question on ordering tellers was put immediately after the Committee obtained a quorum and resumed its sitting. The Chairman indicated that the demand for tellers was not precluded by a prior division vote agreeing to the amendment.

---

19. 79 CONG. REC. 3315, 3316, 74th Cong. 1st Sess.

20. 92 CONG. REC. 4840, 79th Cong. 2d Sess.

The Chairman: The question is on the amendment to the amendment.

The question was taken; and on a division (demanded by Mr. Rooney) there were—ayes 41, noes 29.

Mr. [Jed] Johnson of Oklahoma: Mr. Chairman, I demand tellers.

Mr. [Frank B.] Keefe [of Wisconsin]: Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman: The Chair will count. [After counting.] Eighty-seven Members are present, not a quorum.

The Clerk will call the roll.

The Clerk called the roll. . . .

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Cooper, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 6335, and finding itself without a quorum, he had directed the roll to be called, when 313 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Speaker:(1) The Committee will resume its sitting.

The Chairman: The gentleman from Oklahoma [Mr. Johnson] demands tellers on the amendment offered by the gentleman from Idaho [Mr. Dworshak] to the amendment offered by the gentleman from Utah [Mr. Robertson].

Mr. [Walter K.] Granger [of Utah]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Granger: As I understood the situation when the quorum was called, the Chair had already announced that the amendment offered by the gentleman from Idaho to the amendment had been agreed to; and the request comes too late.

The Chairman: The Chair had announced that on a division the amendment to the amendment had been agreed to. Thereupon, the gentleman from Oklahoma [Mr. Johnson] demanded tellers. At that point a point of order was made that a quorum was not present.

The gentleman's demand for tellers is now pending.

Parliamentarian's Note: Clause 2 of Rule XXIII was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979) to permit the Committee to continue its business following the appearance of a quorum so that the Speaker need not take the chair to receive the Committee's report of absentees. Prior to the adoption of this change in the rules, the Committee of the Whole followed the procedure indicated above. Under the new rule, the Committee would still rise if a quorum of the Committee failed to appear. Rule XXIII clause 2(a), *House Rules and Manual* § 863 (1979). The subject of quorums is discussed more fully in Ch. 20, infra.

---

1. Sam Rayburn (Tex.).

§ 26.5 Where the Committee of the Whole has ordered tellers on an amendment and then rises, the order for tellers is pending and can be vacated and the vote taken de novo only by unanimous consent when the Committee again resumes consideration of the matter.

On July 2, 1947,(2) the Committee of the Whole resumed consideration from the previous day of amendments to H.R. 4002, the War Department civil functions appropriations bill, 1948. Chairman Earl C. Michener, of Michigan, stated that on the previous day the Committee of the Whole had ordered tellers on an amendment and then had risen. The Chairman ruled that the order for tellers could be vacated and the vote taken de novo only by unanimous consent.

> THE CHAIRMAN: . . . When the Committee rose yesterday, the so-called Rankin amendment was pending. A voice vote had been taken. Tellers were demanded and ordered.
>
> Without objection the Clerk will again read the so-called Rankin amendment.
>
> There was no objection.
>
> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, a parliamentary inquiry.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. RANKIN: Mr. Chairman, is it not in order to vacate or disregard the standing vote and take the standing or voice vote again?
>
> THE CHAIRMAN: Tellers have already been ordered.
>
> MR. RANKIN: I understand that, Mr. Chairman, but I believe that where a vote is not completed on one day it is taken again when the question again comes up for consideration.
>
> THE CHAIRMAN: The gentleman's inquiry is: Can the order for tellers be vacated, and the Committee proceed de novo on the amendment? That can be done by unanimous consent.
>
> MR. RANKIN: Mr. Chairman, I ask unanimous consent that that be done.
>
> THE CHAIRMAN: The gentleman from Mississippi asks unanimous consent that the proceedings on the vote on the Rankin amendment when the Committee was last in session be vacated and that the vote be taken de novo. Is there objection?
>
> MR. [ALBERT J.] ENGEL of Michigan: I object, Mr. Chairman.
>
> THE CHAIRMAN: The Clerk will again report the amendment.

---

2. 93 CONG. REC. 8136, 80th Cong. 1st Sess.

CHAPTER 20

Calls of the House; Quorums

A. Calls of the House

§ 1. In General; Scope
§ 2. Calls Ordered on Motions; Automatic Calls
§ 3. The Chair's Count; Names Included on Calls
§ 4. Calls by Electronic Device; Time Allowed for Attendance
§ 5. Securing Attendance; Arrests
§ 6. Closing or Locking the Doors
§ 7. The Call in the Committee of the Whole
§ 8. Motions During the Call—To Adjourn
§ 9. —To Dispense With Further Proceedings Under the Call

B. Effect of Presence or Absence of a Quorum

§ 10. Introductory
§ 11. As Related to the Journal
§ 12. As Related to Prayer by the Chaplain and Messages

C. Objections to Absence of a Quorum; Points of No Quorum

§ 13. In General; Timeliness and Diligence
§ 14. Dilatoriness; Effect of Prior Count
§ 15. Proceedings Pending Call of House in Absence of Quorum
§ 16. In the Committee of the Whole
§ 17. Absence of Quorum in Standing Committee as Bar to Floor Consideration or Other Subsequent Proceedings
§ 18. Withdrawal or Withholding of Objections or Points of No Quorum

---

Commentary and editing by Thomas J. Nicola, J.D.

INDEX TO PRECEDENTS

Absence of quorum in standing committee as bar to floor consideration, see Standing committee, absence of quorum in, as bar to floor consideration

Absence or presence of quorum, effect of
- in general, §§ 10.1–10.3
- adjourning or instructing Sergeant at Arms after quorum fails to appear, §§ 2.19, 10.11, 10.12
- arresting absent Members after failure of quorum to appear, § 10.13
- arrests, securing attendance after quorum fails to appear, §§ 5.4–5.9
- business after quorum fails to appear, conducting, §§ 10.4–10.7
- Calendar Wednesday, § 10.20
- proceedings after quorum fails to appear, adjourning or continuing, § 10.10
- proceedings after quorum fails to appear on vote to suspend rules, §§ 10.14, 10.15
- proceedings during special order, § 10.16
- proceedings permitted during absence of quorum, §§ 1.11–1.13
- question of privilege pending vote on point of no quorum, § 10.8
- Senate precedents, §§ 10.21–10.23
- unfinished business, §§ 10.17–10.19
- vacating proceedings, definition of, § 10.9

Absent Members, arresting, § 10.13

Adjourn, motion to, see also Recess, motion to
- automatic vote by yeas and nays, §§ 8.11, 8.12

Adjourn, motion to—Continued
- calls of House after vote on adjournment, §§ 8.3–8.5, 8.27
- continuing call after quorum fails to appear on, § 8.16
- pending business, effect of adjournment on, § 8.2
- point of no quorum after vote, consequence of, § 8.13
- point of no quorum, pending, § 8.17
- precedence of, over motion for call of House, §§ 8.14, 8.15
- privilege, effect on questions of, § 8.6
- quorum requirement, §§ 8.7–8.10
- second, need for, § 8.1
- Senate precedent, § 8.29
- when in order, §§ 8.18–8.24

Adjourn, refusal to
- procedure available following, §§ 5.14, 8.3–8.6, 8.27

Adjourning or continuing proceedings after quorum fails to appear, § 10.10

Adjourning or instructing Sergeant at Arms after quorum fails to appear, §§ 10.11, 10.12

Approval and reading of Journal, effect of presence or absence of quorum on, §§ 11.1, 11.3–11.5

Arresting absent Members after failure of quorum to appear, § 10.13

Arrests, see Attendance, securing; arrests

Attendance, securing; arrests
- in general, §§ 5.1–5.3
- motions and warrants for arrest, §§ 5.10–5.12
- procedure available following refusal to adjourn, § 5.14

Attendance, securing; arrests—Con.
  procedure available following refusal to dispense with further business, § 5.13
  procedure available when quorum fails to appear, §§ 5.4–5.9
  Senate precedents, §§ 5.15–5.21
Automatic call; call ordered on motion
  adjourn, motion to, see Adjourn, motion to
  call of the House, motion for, §§ 2.8–2.10
  call of the House, proceedings following, §§ 2.16, 2.17
  Chair, prerogatives of, §§ 2.11, 2.14
  Committee of the Whole, automatic yeas and nays in, § 2.7
  convening, ascertaining quorum upon, § 2.3
  interruption by motion to adjourn, § 2.15
  Members' obligation to respond, § 2.2
  postponement of roll calls, § 2.4
  presumption of presence of quorum, § 2.1
  proceedings following call of House, §§ 2.16, 2.17
  Senate precedents, §§ 2.25–2.28
  signal lights and bells, §§ 2.20, 2.21
  Speaker's authority to move call, § 2.6
  vacating passage of bill, proceedings after, § 2.24
  vacating proceedings, §§ 2.22, 2.23
  well of House cleared, § 2.5
Bells and lights, legislative signal, §§ 2.20, 2.21, 7.6
Bryan, United States v
  absence of quorum in standing committee as affecting charge of obstructing committee, § 17
Business, conducting, after quorum fails to appear, §§ 10.4–10.7
Business, intervening, points of no quorum after, §§ 14.7, 14.8
Business, unfinished
  adjournment, effect of on pending business, § 8.2
  effect of presence or absence of quorum, §§ 10.17–10.19
Calendar Wednesday
  effect of absence of quorum, § 10.20
Call in Committee of the Whole, see Committee of the Whole, call in
Call of the House
  absence of quorum, proceedings permitted in, §§ 1.11–1.13
  adjourn, interruptions by motions to, § 2.15
  adjourn, motion to, see Adjourn, motion to
  Chair, prerogatives of the, §§ 2.11–2.14
  correction of count, §§ 3.16, 3.17
  dispense with further proceedings, motion to, see Dispense with further proceedings, motion to
  electronic device, §§ 4.1–4.4
  motion for, §§ 2.8–2.12
  proceedings after quorum fails to appear, §§ 10.4–10.7
  proceedings following, §§ 2.16, 2.17
  proceedings requiring quorum, §§ 1.4–1.10
  recess, motion to, see Recess, motion to
  recounts, § 3.18
  Senate precedents, §§ 2.25–2.28
  vacating passage of bill, proceedings after, §2.24
  vacating proceedings, §§ 2.22, 2.23
Calls ordered on motions; automatic calls, see Automatic call; call ordered on motion
Chair, prerogatives of
  calls of the House, §§ 2.11–2.14
Christoffel v United States
  absence of quorum in standing committee as affecting perjury charge against witness, § 17

Committee of the Whole, call in
in general, §§ 7.1–7.6
automatic yeas and nays in, § 2.7
counting Members, §§ 7.7–7.10
motion to rise, §§ 7.11–7.13
point of no quorum as related to demand for tellers, §§ 7.19, 7.20
proceedings when Committee rises, §§ 7.15–7.18
refusal to rise, consequences of, § 7.14
Committee of the Whole, point of no quorum or objection to absence of quorum in
automatic roll call not in order, §§ 16.2–16.4
proceedings following, §§ 16.8–16.12
rise, pending motion to, §§ 16.6, 16.7
tellers, pending demand for, § 16.5
when in order, § 16.1
Committee (standing), absence of quorum in, as bar to floor consideration, see Standing committee, absence of quorum in, as bar to floor consideration
Consideration, floor, absence of quorum in standing committee as bar to
in general, §§ 17.1–17.4
Christoffel v United States, § 17
Senate precedent, § 17.25
United States v Bryan, § 17
Continuing proceedings or adjourning after quorum fails to appear, § 10.10
Correction of quorum calls, §§ 3.16, 3.17
Counting the Committee of the Whole
in general, §§ 7.7–7.10
Counting the House
calls, correction of, §§ 3.16, 3.17
recounts, § 3.18
roll, inclusion on the, §§ 3.1–3.3
Senate precedent, § 3.19
teller vote, quorum established on, § 3.14
Counting the House—Continued
verification of Chair's count by tellers, § 3.15
who is counted, §§ 3.4–3.9
who is not counted, §§ 3.10–3.13
Debate
point of no quorum, timeliness of, during, §§ 13.6–13.9
Demand for tellers
point of no quorum as related to, in Committee of the Whole, §§ 7.19, 7.20
Dilatory
in general, § 14.1
points of no quorum after intervening business, §§ 14.7, 14.8
points of no quorum not entertained, §§ 14.9–14.17
points of no quorum as not, §§ 14.2–14.6
Dispense with further proceedings, motion or request to
adjourn, precedence of motion to, § 9.4
effect of adoption or rejection of motion, §§ 9.2, 9.3
floor, Member retaining after call, § 9.5
objections to, §§ 9.17–9.19
pending business, effect on, § 9.7
procedures available following refusal, § 5.13
purpose of, § 9.10
quorum requirement, §§ 9.11–9.13
Senate message received while pending, § 9.6
tabling of motion, § 9.1
terminating call, adoption as, §§ 9.8–9.10
yea and nay votes on, §§ 9.14–9.16
Doors, closing or locking
in general, §§ 6.1–6.5
effects of, §§ 6.6–6.9
Doors, reopening, §§ 6.10, 6.11

Effect of presence or absence of quorum, see Absence or presence of quorum, effect of
Electronic device
calls by, generally, §§ 4.1–4.4
Failure of quorum to appear
proceedings after, §§ 2.16, 2.17, 2.19, 10.4–10.7
Floor consideration, absence of quorum in standing committee as bar to, see Consideration, floor, absence of quorum in standing committee as bar to
House as in Committee of the Whole, point of no quorum in, § 13.21
House, counting, see Counting the House
Inclusion on the roll
counting the House, §§ 3.1–3.3
Intervening business, points of no quorum after, §§ 14.7, 14.8
Journal
effect of presence or absence of quorum; in general, §§ 11.1, 11.2
point of order, timeliness of, during reading of, §§ 13.14, 13.15
reading and approval of, §§ 11.1, 11.3–11.6
receipt of messages during reading of §§ 11.7,11.8
refusal of point of no quorum, § 11.9
Lights and bells as legislative signal, §§ 2.20, 2.21, 7.6
Locking or closing doors
in general, § 6.1–6.5
effects of, § 6.6–6.9
Majority as quorum, §§ 1.1, 1.2
Members, arresting absent, § 10.13
Messages, receipt of
effect of presence or absence of quorum, §§ 12.3–12.6
Journal, as related to, §§ 11.7, 11.8
Motion to adjourn, see Adjourn, motion to
Motion to call the House, §§ 2.8–2.10
Motion to dispense with further proceedings, see Dispense with further proceedings, motion to
Motion to recess
in general, § 8.25,
Senate precedent, § 8.28
Motion to rise in Committee of the Whole, §§ 7.11–7.13
Motions
adjournment, see Adjourn, motion to
call of the House, §§ 2.8–2.10
dispensing with further proceedings, see Dispense with further proceedings, motion to
recess, § 8.25
Motions, calls ordered on; automatic calls, see Automatic call; call ordered on motion
Motions and warrants for arrest, §§ 5.10–5.12
Objection to absence of quorum in standing committee as bar to floor consideration, see Standing committee, absence of quorum in, as bar to floor consideration
Objection to dispensing with further proceedings under the call, §§ 9.17–9.19
Objection to absence of quorum—timeliness and diligence
in general, §§ 13.1–13.5
announcement of voice vote, after, § 13.16
announcement of vote result, after, §§ 13.23, 13.24
completing action, after, §§ 13.25, 13.26
division vote, after, § 13.20
division vote and rejection of yeas and nays, after, § 13.19
parliamentary inquiry, preceded by, § 13.18
Parliamentary inquiries following point of no quorum, §§ 15.4–15.7

Parliamentary inquiry
  objection to absence of quorum preceded by, § 13.18
  point of no quorum, after, §§ 15.4–15.7
Point of no quorum
  automatic roll call as not precipitated by, § 13.4
  Committee of the Whole, during receipt of report from, § 13.29
  debatable, not, §§ 15.1, 15.2
  debate, during, §§ 13.6–13.9
  dilatoriness, in general, § 14.1
  dilatory, §§ 14.9–14.17
  dilatory, not, §§ 14.2–14.6
  intervening business, after, §§ 14.7, 14.8
  Journal, during reading of, §§ 13.14, 13.15
  parliamentary inquiries after, §§ 15.4–15.7
  point of order after, § 15.3
  postponing roll calls, effect of agreement, § 13.13
  prayer, before, § 13.22
  resolution, during reading of, §§ 13.11, 13.12
  resolution, during reading of, after establishment of quorum, § 13.28
  special order, during, § 13.10
  tellers, as related to demand for, §§ 7.19, 7.20
  when withdrawal not permitted, §§ 18.7–18.9
  when withdrawal permitted, §§ 18.5, 18.6
  withdrawal, consequences of, §§ 18.3, 18.4
  withdrawal, in general, §§ 18.1, 18.2
  withholding, §§ 18.10, 18.11
Point of no quorum, second
  establishment of quorum and reading message, between, § 13.27
  extend remarks, after permission to, § 13.17
Point of no quorum, withdrawal of, see Withdrawal of point of no quorum
Points of order following points of no quorum, § 15.3
Postponement of roll calls, § 2.4
Prayer by the Chaplain
  effect of presence or absence of quorum, §§ 12.1, 12.2
  point of order, timeliness of, before, § 13.22
Prerogatives of the Chair
  calls of the House, §§ 2.11–2.14
Presence of quorum, presumption of, in standing committee, §§ 17.5, 17.6
Presence or absence of a quorum, effect of, see Absence or presence of quorum, effect of
Presumption of presence of quorum in standing committee, §§ 17.5, 17.6
Presumption of quorum, § 1.3
Privilege, question of, pending vote on point of no quorum, § 8.6
Procedure following refusal to adjourn, § 5.14
Procedure following refusal to dispense with further proceedings, § 5.13
Procedures available when a quorum fails to appear
  arrests; securing attendance, §§ 5.4–5.9
Proceedings
  adjourning or continuing, after quorum fails to appear, § 10.10
  after quorum fails to appear on vote to suspend rules, §§ 10.14, 10.15
  permitted during absence of quorum, §§ 1.11–1.13
  special order, during, § 10.16
  vacating, §§ 2.22–2.24
Proceedings following point of no quorum
  Committee of the Whole, §§ 16.8–16.12
  debate on point of order, §§ 15.1, 15.2
  parliamentary inquiries, §§ 15.4–15.7

Proceedings following point of no quorum—Continued
  points of order, § 15.3
Proceedings when Committee of the Whole rises, §§ 7.15–7.18
Proceedings, further, objection to dispensing with, §§ 9.17–9.19
Proceedings permitted in absence of quorum, §§1.11–1.13
Proceedings requiring a quorum, §§ 1.4–1.10
Questioning committee chairman about absence of quorum, §§ 17.17–17.19
Reading and approval of Journal, §§ 11.1–11.6
Receipt of messages
  Journal, §§ 11.7, 11.8
Recess before roll call completed, § 8.26
Recess, motion to
  in general, § 8.25
  Senate precedent, § 8.28
Refusal to dispense with further proceedings
  procedure available following, § 5.13
Refusal to rise
  consequences of, § 7.14
Reopening doors, §§ 6.10, 6.11
Rise, motion to
  Committee of the Whole, §§ 7.11–7.13
  consequences of refusal, § 7.14
Roll calls, effect of postponing, on point of no quorum, § 12.13
Roll, inclusion of names on, §§ 3.1–3.3
Rules, suspension of
  absence of quorum in committee as bar to floor consideration, §§ 17.22, 17.23
Securing attendance; arrests, see Attendance, securing; arrests
Senate precedents
  absence of quorum in standing committee as bar to floor consideration, § 17.25
Senate precedents—Continued
  absence or presence of quorum, effect of, §§ 10.21–10.23
  adjournment or recess, quorum call after, §§ 2.26–2.28
  committee (standing), absence of quorum in, as bar to floor consideration, § 17.25
  effect of presence or absence of quorum, §§ 10.21–10.23
  floor consideration, absence of quorum in committee as bar to, § 17.25
  Presiding Officer may suggest absence of quorum, § 2.25
  quorum assumed to be present, § 3.19
  quorum, establishment of, following adjournment, § 8.29
  recess, motion to, § 8.28
  securing attendance arrests, §§ 5.15–5.21
  yeas and nays, demand for, seconded, § 3.19
Sergeant at Arms, instructing, or adjourning after quorum fails to appear, §§ 2.19, 10.11, 10.12
Signal lights and bells, §§ 2.20–2.22
Special orders, point of order during, § 13.10
Standing committee, absence of quorum in, as bar to floor consideration
  in general, §§ 17.1–17.4
  Christoffel v United States, § 17
  presumption of presence of quorum, §§ 17.5, 17.6
  questioning committee chairman as to quorum, §§ 17.17–17.19
  rule waiving quorum requirements, § 17.24
  Senate precedent, § 17.25
  suspension of rules, §§ 17.22, 17.23
  timeliness of point of order, §§ 17.6–17.16
  United States v Bryan, § 17

Standing committee, absence of quorum in, as bar to floor consideration—Con.
  withdrawal of floor consideration, §§ 17.20, 17.21
Suspend rules
  effect of absence of quorum in standing committee as bar to floor consideration, §§ 17.22, 17.23
  proceedings after quorum fails to appear on vote to, §§ 10.14, 10.15
Tellers
  point of no quorum in Committee of the Whole as related to, demand for, §§ 7.19, 7.20
  quorum established on vote, § 3.14
Timeliness of points of no quorum
  in general, §§ 13.1–13.3
  committee, objection in House to lack of quorum in, §§ 17.6–17.16
  completing action, after, §§ 13.25, 13.26
  conference report, after agreement to, § 13.26
  debate, during, §§ 13.6–13.9
  division vote, after, § 13.20
  division vote and rejection of yeas and nays, after, § 13.19
  extend remarks, after permission to, § 13.17
  parliamentary inquiry, preceded by, § 13.18
  passage of bill, after, § 13.25
  prayer, before, § 13.22
  reading of resolution after establishment of quorum, during, § 13.28
Timeliness of points of no quorum—Continued
  roll calls, effect of postponing, § 13.13
  special order, during, § 13.10
  voice vote, after announcement of, § 13.16
Unfinished business
  Calendar Wednesday, effect of absence of quorum on, § 10.20
  effect of absence of a quorum, §§ 10.17–10.19
Vacating proceedings
  interpretation of rule, § 2.22
  passage of bill, proceedings after vacating, § 2.24
  unanimous-consent request to vacate proceedings, § 2.23
Verification of Chair's count by tellers
  counting the House, § 3.15
Vote, failure of quorum to, § 2.18
Warrants and motions for arrest, §§ 5.10–5.12
Withdrawal of floor consideration because of absence of quorum in committee, §§ 17.20, 17.21
Withdrawal of point of no quorum
  in general, §§ 18.1, 18.2
  consequences of, §§ 18.3, 18.4
  when not permitted, §§ 18.7–18.9
  when permitted, §§ 18.5, 18.6
Withholding
  point of no quorum, §§ 18.10, 18.11
Yea and nay votes
  dispense with further proceedings, motion to, §§ 9.14–9.16

Calls of the House; Quorums

A. CALLS OF THE HOUSE

§ 1. In General; Scope

Article I, section 5, of the Constitution,(1) provides that "a Majority of each [House] shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide." A quorum consists of a majority(2) of those Members sworn and living,(3) whose membership has not been terminated by resignation or action of the House.(4)

A quorum is presumed to be present unless a point of no quorum is made.(5) Although it is not the duty of the Chair to take cognizance of the absence of a quorum unless disclosed by a vote or questioned by a point of no quorum,(6) failure of a quorum to vote on a roll call cannot be ignored; the Chair must announce that fact although it was not objected to from the floor.(7)

After the absence of a quorum has been announced, no "business" including a unanimous-consent request to withdraw the point of no quorum,(8) is in order until a quorum has been established.(9) Nonetheless, the motion to adjourn, the motion for a call of the House(10) and motions incidental to a call of the House(11) are in order in the absence of a quorum. Similarly, the House may adjourn *sine die* in the absence of a quorum where both Houses have adopted a concurrent resolution pro-

---

1. See *House Rules and Manual* §§ 52–57 (1979), for a discussion of earlier precedents relating to this provision.

   For earlier treatment of the quorum, see 4 Hinds' Precedents §§ 2884–2979; and 6 Cannon's Precedents §§ 638–677; discussion of calls of the House appears in 4 Hinds' Precedents §§ 2980–3055; and 6 Cannon's Precedents §§ 678–707.
2. § 1.1, infra.
3. § 1.2, infra.
4. 4 Hinds' Precedents §§ 2889, 2890; and 6 Cannon's Precedents § 638.
5. § 1.3, infra.
6. 6 Cannon's Precedents § 565.
7. 4 Hinds' Precedents §§ 2953, 2963; and 6 Cannon's Precedents § 624.
8. See §§ 10, 18.7, infra, for a discussion of the definition of "business."
9. § 1.5, infra.
10. § 1.6, infra.
11. § 1.11, infra.

viding for a *sine die* adjournment on that day.(12) Moreover, under the precedents, a quorum is not required for the opening prayer and Members are not recognized for such a point of order.(13)

In the 93d Congress, on Apr. 9, 1974, certain changes were adopted in the rules governing the time for making a point of no quorum, as well as the proper procedures relating to quorum calls. These changes will be discussed in detail in supplements to this edition as they appear. Broadly, under the new procedures, a point of no quorum may not be entertained (1) before or during the offering of prayer; (2) during the administration of the oath of office to the Speaker, Speaker pro tempore, Member, Delegate, or Resident Commissioner; (3) during the reception of any message from the President or the Senate; and (4) during the offering, consideration, and disposition of any motion incidental to a call of the House. The *House Rules and Manual*, published each Congress, can serve as a reference for changes of the rules relating to the establishment of a quorum which have occurred following the publication date of this volume.

In addition, since the beginning of the 93d Congress, once the Chairman of the Committee of the Whole determines during a quorum call that a quorum is present, he may, under Rule XXIII clause 2(a), declare that a quorum is constituted, whereupon proceedings under the call are considered vacated.

Similarly, after the presence of a quorum is ascertained, a further point of no quorum may not be made or entertained during reading of the Journal, pending a report from the Committee of the Whole to the House, during special orders, or any other time until additional business intervenes. A quorum is not required in the Committee of the Whole for agreement to a motion that the Committee rise.

In the 94th and 95th Congresses, other changes were adopted in the rules regarding the necessity for and establishment of a quorum. Under clause 6(e)(1) of Rule XV, the Speaker may not entertain a point of order of no quorum when he has not put a question to a vote in the House, but under clause 6(e)(2) the Speaker may at any time in his discretion recognize a Member of his choice to move a call of the House. Clause 6(e)(2) was amended

---

12. § 1.13, infra; see also § 8, infra, for a discussion of the motion to adjourn.

13. § 1.12, infra.

in the 96th Congress to dispense with further proceedings under any call of the House when a quorum appears unless the Speaker in his discretion recognizes for a motion.(14) Changes since the 93d Congress in Rule XXIII clause 2 relating to quorum calls in Committee of the Whole are discussed in detail in § 7, infra.

Collateral Reference

Constitution of the United States of America; Analysis and Interpretation, S. Doc. No. 92–82, 112, 113, 92d Cong. 2d Sess.

Majority as Quorum

§ 1.1 A majority of the House constitutes a quorum to do business.

On Feb. 18, 1958,(15) Speaker Sam Rayburn, of Texas, after counting 217 Members, stated that a quorum was present.

> MR. [MICHAEL J.] KIRWAN [of Ohio]: Mr. Speaker, I move the previous question on the motion to recommit.
>
> The previous question was ordered.
>
> THE SPEAKER: The question is on the motion to recommit.
>
> MR. [BEN F.] JENSEN [of Iowa]: Mr. Speaker, on that I ask for the yeas and nays.
>
> The yeas and nays were refused.
>
> The question was taken, and the Chair announced that the noes appeared to have it.
>
> MR. JENSEN: Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.
>
> THE SPEAKER: The Chair will count. [After counting.] Two hundred and seventeen Members are present, a quorum.(16)
>
> The question is on the passage of the bill.

§ 1.2 A quorum of the House consists of a majority of those Members sworn and living; the Speaker's vote may be counted to make a quorum.

On Oct. 20, 1966,(17) the Speaker voted on a conference report in order to make a quorum.

> THE SPEAKER:(18) The question is on agreeing to the conference report.
>
> The question was taken; and the Speaker announced that the "ayes" appeared to have it.
>
> MR. [GLENN] CUNNINGHAM [of Nebraska]: Mr. Speaker, I object to the vote on the ground that a quorum is

---

14. See Rule XV clause 6 (e) (1) and (2), *House Rules and Manual* § 774c (1979).
15. 104 CONG. REC. 2317, 85th Cong. 2d Sess.
16. At this time 431 Members were chosen, sworn, and living; consequently 216 would have constituted the necessary quorum.
17. 112 CONG. REC. 28254, 28255, 89th Cong. 2d Sess.
18. John W. McCormack (Mass.).

not present and make the point of order that a quorum is not present.

The Speaker: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 171, nays 46, not voting [216], as follows: . . .

The Speaker: The Clerk will call my name.

The Clerk called the name of Mr. McCormack, and he answered "yea."

So the conference report was agreed to.

Presumption of Quorum

§ 1.3 In the House of Representatives a quorum is presumed always to be present unless a point of no quorum is made.

On July 18, 1949,(19) Speaker Sam Rayburn, of Texas, made a statement regarding presumption of a quorum.

Mr. [Clare E.] Hoffman of Michigan: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Hoffman of Michigan: Mr. Speaker, it is my understanding this is Consent Calendar day. In view of the recent Supreme Court decision in the Christoffel case,(20) which held affirmatively that unless a quorum is present the committees of the House and the House are not legal tribunals, would the House now be competent to consider bills on the Consent Calendar, it being apparent a quorum is not present?

The Speaker: The gentleman knows, of course, that unless a point of no quorum is made, it is presumed that a quorum is always present.

Proceedings Requiring a Quorum

§ 1.4 Ascertaining the presence of a quorum is the first order of business when the House convenes following a sine die adjournment.

On Jan. 7, 1964,(21) Speaker John W. McCormack, of Massachusetts, ascertained the presence of a quorum immediately after the prayer.

This being the day fixed by Public Law 247, 88th Congress, enacted pursuant to the 20th amendment to the Constitution, for the meeting of the 2d session of the 88th Congress, the Members of the House of Representatives of the 88th Congress met in their Hall, and at 12 o'clock noon were called to order by the Speaker, the Honorable John W. McCormack, a Representative from the State of Massachusetts.

---

19. 95 Cong. Rec. 9654, 81st Cong. 1st Sess.

20. *Christoffel* v *United States*, 328 U.S. 84 (1949). See § 17, infra, for a discussion of this case.

21. 110 Cong. Rec. 4, 5, 88th Cong. 2d Sess.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the . . . prayer. . . .

CALL OF THE HOUSE

THE SPEAKER: The Clerk will call the roll to ascertain the presence of a quorum. . . .

On this roll call 342 Members have answered to their names. A quorum is present.

§ 1.5 The Chair refuses to recognize Members for business after an absence of a quorum has been announced; no business is in order until a quorum has been established.

On June 8, 1960,(1) Speaker Sam Rayburn, of Texas, refused to entertain business until a quorum was established.

CALL OF THE HOUSE

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, I make the point of order that there is no quorum. I am telling you now, I told you I was coming here.

THE SPEAKER: The gentleman from Michigan has already made a point of no quorum.

MR. HOFFMAN of Michigan: I will renew it, if necessary.

THE SPEAKER: The gentleman has made the point of order of no quorum, and he should not try to speak in that time.

The Chair will count. [After counting.] A quorum is not present.

MR. [RICHARD W.] BOLLING [of Missouri]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

THE SPEAKER: The Clerk will call the roll.

MR. HOFFMAN of Michigan: Mr. Speaker——

THE SPEAKER: The Chair cannot recognize the gentleman because a point of order of no quorum has been made, and the Chair announced that there was no quorum.

The Clerk will call the roll.

§ 1.6 A quorum not being present, no motion is in order but for a call of the House or a motion to adjourn; at this stage a motion to adjourn has precedence over the motion for a call of the House.

On Apr. 24, 1956,(2) Speaker Sam Rayburn, of Texas, presented the question on a motion to adjourn before addressing himself to a prior motion for a call of the House.

§ 1.7 Where the Speaker after a count announces that no quorum is present, all proceedings and debate are suspended until a quorum is secured or the House adjourns.

On Mar. 25, 1937,(3) Speaker

---

1. 106 CONG. REC. 12142, 86th Cong. 2d Sess.
2. 102 CONG. REC. 6891, 84th Cong. 2d Sess.
   For proceedings of the House on this date, see § 8.14, infra.
3. 81 CONG. REC. 2793, 75th Cong. 1st Sess.

William B. Bankhead, of Alabama, made a statement regarding the effect of a quorum.

Mr. [Scott W.] Lucas [of Illinois]: Mr. Speaker, will the gentleman yield?

Mr. [Ralph E.] Church [of Illinois]: When I finish my statement, please.

Mr. [Joseph W.] Martin [Jr.] of Massachusetts: I demand the gentleman be protected in his rights.

The Speaker: The gentleman has declined to yield.

Mr. [Frank E.] Hook [of Michigan]: Mr. Speaker, I make the point of no quorum.

The Speaker: The gentleman from Michigan makes the point there is no quorum present. The Chair will count. [After counting.] One hundred and ten Members are present, not a quorum.

Mr. [Sam] Rayburn [of Texas]: Mr. Speaker, I move that the House do now adjourn.

Mr. [Adolph J.] Sabath [of Illinois]: Mr. Speaker, will the gentleman yield?

Mr. Rayburn: No business can be conducted in the absence of a quorum.

Mr. Sabath: I should like to answer these despicable statements.

The Speaker: The gentleman from Texas moves the House do now adjourn.

Mr. Church: I will yield to the gentleman. I want to be fair.

The Speaker: No business of any character can be transacted during the absence of a quorum. It raises a constitutional question. A quorum is not present. The gentleman from Texas has moved that the House do now adjourn, which is not a debatable motion.

The question was taken; and the Speaker announced that the ayes had it.

Mr. [Hamilton] Fish [Jr., of New York]: Mr. Speaker, I ask for the yeas and nays.

The Speaker: The gentleman from New York demands the yeas and nays.

The yeas and nays were refused.

So the motion to adjourn was agreed to.

§ 1.8 A quorum is required to agree to a resolution to adjourn sine die.

On Oct. 18, 1972,[4] House Concurrent Resolution 726 was passed.

PROVISION FOR SINE DIE ADJOURNMENT

Mr. [Thomas P.] O'Neill [of Massachusetts]: Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 726) and ask for its immediate consideration.

The Clerk read as follows:

H. Con. Res. 726

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Wednesday, October 18, 1972, and that when they adjourn on said day, they stand adjourned sine die.

The Speaker:[5] The question is on the concurrent resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. [James G.] O'Hara [of Michigan]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

---

[4] 118 Cong. Rec. 37061, 37062, 92d Cong. 2d Sess.

[5] Carl Albert (Okla.).

The Speaker: Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 240, nays 21, not voting 170, as follows: . . .

So the concurrent resolution was agreed to.

§ 1.9 Where the Chair after counting announces that a quorum is not present, a Member may not even by unanimous consent withdraw his point of no quorum to permit the House to continue with its business without first having obtained a quorum.

On Dec. 18, 1937,(6) Speaker William B. Bankhead, of Alabama, made a ruling regarding withdrawal of a point of no quorum.

Mr. [Louis C.] Rabaut [of Michigan]: Mr. Speaker, I suggest the absence of a quorum.

The Speaker: The gentleman from Michigan makes the point of order that there is not a quorum present. The Chair will count. [After counting.] One hundred and fifty-six Members are present, not a quorum.

Mr. Rabaut: Mr. Speaker, I will withdraw the motion.

Mr. [Bertrand H.] Snell [of New York]: Mr. Speaker, a point of order. The Speaker has announced that a quorum is not present. The gentleman from Michigan cannot withdraw the point of order. The Speaker has announced that there is no quorum present. Business cannot be conducted after the Speaker has announced there is no quorum present.

The Speaker: The Chair will hold that a point of order having been made that there was no quorum present, and the Chair having counted and announced that there was no quorum present, a constitutional question is raised. No quorum is present, as was announced by the Chair.

Mr. [Henry B.] Steagall [of Alabama]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

§ 1.10 Any action by the House on a Senate amendment requires a quorum if a Member raises that question.

On Mar. 30, 1944,(7) Speaker pro tempore John W. McCormack, of Massachusetts, made a statement regarding the need for a quorum for consideration of a Senate amendment.

The Speaker pro Tempore: The Chair lays before the House, House Concurrent Resolution No. 75, with a Sen-

---

6. 82 Cong. Rec. 1846, 75th Cong. 2d Sess.

7. 90 Cong. Rec. 3318, 78th Cong. 2d Sess.

ate amendment, which the Clerk will report.

The Clerk read as follows:

> Senate amendment: On page 2, line 3, strike out "Thursday, March 30" and insert "Saturday, April 1."

Amend the title so as to read: "Concurrent resolution providing for the adjournment of Congress from Saturday, April 1, 1944, to Wednesday, April 12, 1944."

The Speaker Pro Tempore: Without objection, the amendment is agreed to.

Mr. [Clare E.] Hoffman [of Michigan]: Mr. Speaker, reserving the right to object, I make a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Hoffman: What is the procedure?

Mr. [Robert] Ramspeck [of Georgia]: Mr. Speaker, I move that the House concur in the Senate amendment.

Mr. Hoffman: Well, Mr. Speaker, I object.

The Speaker Pro Tempore: Is the gentleman propounding a parliamentary inquiry?

Mr. Hoffman: Yes, Mr. Speaker.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Hoffman: What is the procedure on this resolution?

The Speaker Pro Tempore: It is a privileged resolution, and the procedure would be for some Member—and the gentleman from Georgia [Mr. Ramspeck] has done so—to make a motion that the House concur in the Senate amendment.

Mr. Hoffman: And then a vote is taken on the motion?

The Speaker Pro Tempore: That is correct.

Mr. Hoffman: Does that require a quorum?

The Speaker Pro Tempore: Any action by the House requires a quorum if the one who takes such step raises that question.

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Rankin: As I understand the situation, whether there is a quorum present or not, unless this amendment is agreed to the resolution does not become final until this amendment is disposed of. That is correct, is it not?

The Speaker Pro Tempore: The gentleman is correct.

Mr. Rankin: And therefore we would not be in a position to recess for the time mentioned until this amendment is disposed of one way or the other.

The Speaker Pro Tempore: The understanding of the Chair is the same as that of the gentleman from Mississippi.

The gentleman from Georgia moves that the House concur in the Senate amendment.

The question is on the motion of the gentleman from Georgia.

Mr. Hoffman: Mr. Speaker, I make the point of order that a quorum is not present.

The Speaker Pro Tempore: The Chair will count.

Mr. Hoffman: Mr. Speaker, I withdraw the point of no quorum for the time being.

The Speaker Pro Tempore: Without objection, further consideration of the concurrent resolution (H. Con. Res. 75) will be withdrawn.

There was no objection.

Proceedings Permitted in the Absence of a Quorum

§ 1.11 A quorum is not required on motions incidental to a call of the House.

On Oct. 8, 1940,[8] Speaker Sam Rayburn, of Texas, made a ruling regarding the need for a quorum on a motion to dispense with further proceedings, which is a motion incidental to a call of the House.

> The Speaker: On this roll call 318 Members have answered to their names, a quorum.
>
> Mr. [Jere] Cooper [of Tennessee]: Mr. Speaker, I move to dispense with further proceedings under the call.
>
> The Speaker: Without objection it is so ordered.
>
> Mr. [John] Taber [of New York]: Mr. Speaker, I object.
>
> Mr. Cooper: I moved it, Mr. Speaker.
>
> The Speaker: The question is on the motion of the gentleman from Tennessee.
>
> The question was taken; and, on a division (demanded by Mr. Taber), there were—ayes 99 and noes 75.
>
> Mr. Taber: Mr. Speaker, I object to the vote on the ground that there is not a quorum present.
>
> The Speaker: A quorum is not required to dispense with further proceedings under the call.

§ 1.12 A quorum is not required for prayer by the Chaplain and the Speaker does not recognize Members for such a point of order.

On Mar. 19, 1941,[9] Speaker Sam Rayburn, of Texas, made a statement regarding recognition of Members for a point of no quorum during prayer.

> Mr. [Robert F.] Rich [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state it.
>
> Mr. Rich: Mr. Speaker, when I was seeking recognition from the Speaker before the Chaplain offered prayer, I felt that there would be a call of the House and I thought it would be a good

---

[8] 86 Cong. Rec. 13403, 76th Cong. 3d Sess. In an isolated instance, objections to the lack of a quorum to vote on motions incidental to a call of the House were improperly entertained. See the proceedings at 108 Cong. Rec. 9940–42, 87th Cong. 2d Sess., Sept. 19, 1962. On that occasion, failure of a quorum to vote on motions to dispense with further proceedings under a call of the House resulted in automatic yea and nay votes on the motions.

[9] 87 Cong. Rec. 2351, 2352, 77th Cong. 1st Sess.

thing for all the Members to be here for once to hear the Chaplain offer prayer. What does the Speaker think about that? Would it be proper procedure for a Member to make the point of order that a quorum is not present before the Chaplain offers prayer?

THE SPEAKER: As the Chair understands, it has been held many times that the prayer is not such business of the House that a quorum is required.

§ 1.13 The House, pursuant to a resolution agreed to when a quorum was present, may adjourn sine die in the absence of a quorum.

On Oct. 18, 1972,[10] the House adjourned *sine die* in the absence of a quorum following agreement by a quorum to a resolution authorizing such adjournment.[11]

CALL OF THE HOUSE

MR. [JOHN T.] MYERS [of Indiana]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER:[12] The Chair will count.

One hundred twelve Members are present, not a quorum.

MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

PARLIAMENTARY INQUIRIES

MR. [WILBUR D.] MILLS of Arkansas: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MILLS of Arkansas: Mr. Speaker, will the Speaker entertain a unanimous-consent request that the call of the roll be vacated.

THE SPEAKER: The Speaker does not have that authority under the Constitution.

If there are any Members in the Chamber who have not answered and the Speaker can identify them, he will have them recorded. The Speaker does have that authority, but he does not know of any such Members.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

[276 Members failed to answer.]

MR. O'NEILL: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. O'NEILL: Mr. Speaker, am I correct in assuming that when the House adjourns tonight it adjourns to meet on January 3, 1973, at 12 o'clock?

THE SPEAKER: That is correct. . . .

ADJOURNMENT SINE DIE

MR. O'NEILL: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

THE SPEAKER: In accordance with the provisions of House Concurrent Resolution 726, the Chair declares the second session of the 92d Congress adjourned sine die.

Accordingly (at 8 o'clock and 47

---

[10] 118 CONG. REC. 37199, 37200, 92d Cong. 2d Sess.

[11] See § 1.8, supra, for agreement to the resolution permitting adjournment *sine die*.

[12] Carl Albert (Okla.).

minutes p.m.), Wednesday, October 18, 1972, the House adjourned sine die.

Parliamentarian's Note: This final quorum call originally omitted from the daily edition of the Record, was inserted in the Journal and in the permanent Record at the request of the Parliamentarian based upon the rationale stated in § 2.22, infra, showing that an adjournment of the House in the absence of a quorum does not justify deletion of those proceedings from the Journal and Record.

§ 2. Calls Ordered on Motions; Automatic Calls

The rules of the House authorize two calls of the House, the call on motion and the automatic call, to ascertain the presence of a quorum. Prior to the 95th Congress, the call ordered on motion(13) was in order in the absence of a quorum whether or not a pending question was being put to a vote. Under this former procedure, a Member rose and made the point of order that a quorum was not present. The Speaker, after noting the point of order, counted the House and announced whether a quorum was present. If not, any Member could move a call of the House. Under current procedure (beginning in the 95th Congress) a point of order of no quorum may not be entertained unless the pending question has been put to a vote, but the Speaker may, in his discretion, recognize for a motion for a call of the House at any time.(14) Fifteen Members including the Speaker voting in the affirmative are authorized to compel the attendance of absentees.(15) But because a call must be ordered by a vote of a majority of those present, a minority of 15 favoring a call on such vote will not suffice.(1)

If a majority votes to compel attendance absentees are notified. Warrants may be issued by order of a majority of those present, and those for whom no sufficient excuse is made may be arrested by officers appointed by the Sergeant at Arms; absentees' attendance is secured and retained until they are discharged by the House. Members who appear voluntarily are im-

---

13. Rule XV clause 2(a), *House Rules and Manual* § 768 (1979).

14. Rule XV clause 6(e), *House Rules and Manual* § 774(c) (1979).

15. Rule XV clause 2(a), *House Rules and Manual* § 768 (1979).

1. See annotation to Rule XV clause 2(a), *House Rules and Manual* § 769 (1979); and 4 Hinds' Precedents § 2984.

mediately admitted to the Hall of the House and report their names to the Clerk to be entered upon the Journal as present. Until the 96th Congress, the appearance of a sufficient number to make a quorum did not automatically terminate proceedings incident to the call such as closing the doors (which was the practice until the 92d Congress), completing the call of the roll, noting absentees, and arresting and retaining absentees; these activities continue upon order of a majority of those present until the House either by unanimous consent or motion agrees to dispense with further proceedings under the call.(2) After agreeing, the House resumes its business.

When a call of the House on motion is ordered, the Speaker, subject to the provision relating to recording votes by electronic device,(3) or in lieu of a call of the roll under Rule XV clause 1, is authorized by Rule XV clause 2(b)(4) to appoint one or more clerks to tell the names of Members who are present.

The other call of the House, the automatic call,(5) ensues when a quorum fails to vote on any question which requires a quorum,(6) a quorum is not present, and objection is made

---

2. See § 9, infra, for a discussion of the motion to dispense with further proceedings under the call. In the 96th Congress, clause 6(e)(2) was amended to provide that proceedings be automatically dispensed with unless the Speaker in his discretion recognizes for a motion to dispense. Until the 93d Congress, Rule XV clause 2 required that the doors be closed on any call of the House, but on Oct. 13, 1972, that clause was amended (H. Res. 1123, 92d Cong. 2d Sess., 118 CONG. REC. 36012) to require that the doors would be closed only by order of the Speaker, effective at the end of the 92d Congress. See § 6, infra.

3. Rule XV clause 5, *House Rules and Manual* § 774b (1979).

4. *House Rules and Manual* § 771b (1979).

5. Rule XV clause 4, *House Rules and Manual* § 773 (1979).

6. See annotation to Rule XV clause 4, *House Rules and Manual* § 773 (1979). The automatic call does not apply to questions which do not require a quorum, such as an affirmative vote on a motion to adjourn (95 CONG. REC. 10092, 81st Cong. 1st Sess., July 25, 1949), a motion incidental to a call of the House which may be agreed to by less than a quorum (4 Hinds' Precedents §§ 2994, 3029; 6 Cannon's Precedents § 681) or a call when no question is pending (4 Hinds' Precedents § 2990). A point of no quorum on a negative vote of adjournment, if sustained, precipitates an automatic call (6 Cannon's Precedents § 700).

for that reason,(7) unless the House adjourns. Following announcement of a vote,(8) the Speaker, hearing a point of no quorum from the floor, or on his own initiative, declares the absence of a quorum, orders the Doorkeeper to close the doors (a practice discontinued in the 92d Congress by addition of clause 2(b), Rule XV, on Oct. 13, 1972) and the Sergeant at Arms to bring in absent Members, and states that those in favor should vote "aye" and those opposed "no." Under this procedure, as distinguished from the call on motion where an order of a majority of those present is needed, the Speaker without floor action possesses the authority to issue a warrant(9) permitting the Sergeant at Arms, without separate motion, forthwith to bring in absentees, but the Speaker usually does not do so without action of the House. (See § 5.10, infra.) The yeas and nays on the pending question are considered ordered. Unless the vote is taken by electronic device, the Clerk calls the roll and each Member as his name is called may vote on the pending question. Members brought in by the Sergeant at Arms are noted as present, immediately discharged from arrest, and given an opportunity to vote. The Speaker is authorized to declare that a quorum is constituted if those voting on the question together with those who are present and decline to vote make a majority of the House. Such a declaration dispenses with further proceedings. The pending question is decided by the majority vote of those who appear if a quorum reponds. Proceedings under the automatic call are vacated if the House adjourns any time after completion of a roll call before a quorum responds and the result is announced.(10)

The provision which authorizes automatic calls of the House is

---

7. Following failure of a quorum to appear on a yea and nay vote, the Speaker may take cognizance of that fact and order an automatic call of the House despite absence of a point of order from the floor (6 Cannon's Precedents §§ 678, 679).

8. The automatic roll call applies whether the question on which the House is dividing is decided by a viva voce vote (6 Cannon's Precedents § 697), division (6 Cannon's Precedents § 691), tellers (4 Hinds' Precedents § 3053), or yeas and nays (6 Cannon's Precedents § 703).

9. See Rule XV clause 4, *House Rules and Manual* §§ 773, 774a (1979); 4 Hinds' Precedents § 3043; and 6 Cannon's Precedents § 702.

10. Rule XV clause 4, *House Rules and Manual* § 773 (1979).

subject to Rule XV clause 5,(11) which permits the Speaker, unless he orders the calling of names in a manner authorized by the other sections of Rule XV, to order names to be called by electronic device.(12)

The automatic vote by yeas and nays is not in order in the Committee of the Whole.(13)

Amendments to the rules affecting procedures subsequent to the 94th Congress under calls of the House and under automatic yea and nay votes will be discussed in greater detail in supplements to this edition as they appear.

Presumption as to Presence of Quorum

§ 2.1 In the House of Representatives a quorum is presumed always to be present unless a point of no quorum is made.

On July 18, 1949,(14) Speaker Sam Rayburn, of Texas, made a statement regarding presumption of a quorum.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HOFFMAN of Michigan: Mr. Speaker, it is my understanding this is Consent Calendar day. In view of the recent Supreme Court decision in the Christoffel case,(15) which held affirmatively that unless a quorum is present the committees of the House and the House are not legal tribunals, would the House now be competent to consider bills on the Consent Calendar, it being apparent a quorum is not present?

THE SPEAKER: The gentleman knows, of course, that unless a point of no quorum is made, it is presumed that a quorum is always present.

Obligation to Respond

§ 2.2 Permission of the House for a committee to sit during the sessions of the House does not relieve Members from their obligation to respond on roll calls.

On Aug. 5, 1937,(16) Speaker William B. Bankhead, of Alabama, made a ruling regarding Members' obligation to respond to quorum roll calls.

MR. [HAMILTON] FISH [Jr., of New

---

11. *House Rules and Manual* § 774b (1979).
12. See § 4, infra; and Ch. 30, infra, for discussions of electronic voting.
13. See annotation to Rule XV clause 4, *House Rules and Manual* § 774a (1979); and § 2.7, infra.
14. 95 CONG. REC. 9654, 81st Cong. 1st Sess.
15. *Christoffel* v *United States*, 338 U.S. 84 (1949). See § 17, infra, for a discussion of this case.
16. 81 CONG. REC. 8300, 75th Cong. 1st Sess.

York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: Does the gentleman from Indiana yield to permit the gentleman from New York to submit a parliamentary inquiry?

MR. [ARTHUR H.] GREENWOOD [of Indiana]: I yield.

MR. FISH: Mr. Speaker, when permission is given to a committee to sit during the sessions of the House, does that give any rights to any of the members of that committee on roll calls?

THE SPEAKER: Absolutely none.

MR. FISH: Not even on quorum roll calls?

THE SPEAKER: It does not. On all quorum roll calls all Members who desire to be recorded must appear and vote on the roll call.

Ascertaining Quorum Upon Convening

§ 2.3 Ascertaining the presence of a quorum is the first order of business when the House convenes following a sine die adjournment.

On Jan. 7, 1964,(17) Speaker John W. McCormack, of Massachusetts, ascertained the presence of a quorum immediately after the prayer.

This being the day fixed by Public Law 247, 88th Congress, enacted pursuant to the 20th amendment to the Constitution, for the meeting of the 2d session of the 88th Congress, the Members of the House of Representatives of the 88th Congress met in their Hall, and at 12 o'clock noon were called to order by the Speaker, the Honorable John W. McCormack, a Representative from the State of Massachusetts.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the . . . prayer: . . .

CALL OF THE HOUSE

THE SPEAKER: The Clerk will call the roll to ascertain the presence of a quorum. . . .

THE SPEAKER: On this rollcall 342 Members have answered to their names. A quorum is present.

Postponement of Roll Calls

§ 2.4 Any roll calls which might be requested [except on resolutions from the Committee on Rules] were, by unanimous consent, ordered postponed until the following Tuesday [six calendar days from the date of the request].

On May 27, 1959,(18) roll calls were ordered postponed by unanimous consent.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that any rollcall votes, except on rules which may be requested tomorrow or Monday, be put over until Tuesday next.

---

17. 110 CONG. REC. 4, 5, 88th Cong. 2d Sess.

18. 105 CONG. REC. 9202, 86th Cong. 1st Sess.

THE SPEAKER PRO TEMPORE:[19] Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Presence of Members in Well During Roll Call

§ 2.5 The Speaker has ordered Members from the well of the House during a roll call.

On Oct. 12, 1962,[20] Speaker John W. McCormack, of Massachusetts, responding to a demand from a Member, H. R. Gross, of Iowa, ordered the well cleared.

MR. [CLARENCE] CANNON [of Missouri]: I make the point of order that a quorum is not present and ask for the yeas and nays.

THE SPEAKER: The gentleman from Missouri makes the point of order that a quorum is not present and objects to the vote on the ground that a quorum is not present.

The Chair will count.

Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 84, nays 120, not voting 230, as follows. . . .

MR. GROSS (interrupting the rollcall): Mr. Speaker, I demand the regular order.

THE SPEAKER: The regular order is proceeding.

MR. GROSS (interrupting the rollcall): Mr. Speaker, I demand the well be cleared.

THE SPEAKER: Members will take their places out of the well. . . .

The Clerk resumed calling the roll.[1]

Speaker's Authority to Move a Call

§ 2.6 On a day on which the Speaker pro tempore was in the Chair when a point of no quorum was made, the Speaker moved a call of the House.

On June 3, 1960,[2] while Speaker pro tempore Francis E. Walter, of Pennsylvania, was in the Chair, Speaker Sam Rayburn, of Texas, moved a call of the House from the floor.

CALL OF THE HOUSE

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, I make the point of order that a quorum is not present.

---

[19] John W. McCormack (Mass.).

[20] 108 CONG. REC. 23423, 23424, 23432–34, 87th Cong. 2d Sess.

[1] *Parliamentarian's Note:* Members may not remain near the Clerk's desk (including the well) during a roll call vote. Rule XIV clause 7, *House Rules and Manual* § 763 (1979).

Rule I clause 3 [*House Rules and Manual* § 623 (1979)], authorizes the Speaker to exercise general control of the Hall of the House.

[2] 106 CONG. REC. 11830, 86th Cong. 2d Sess.

MR. [CHET] HOLIFIELD [of California]: I hope the gentleman will withhold his point of order for a minute. . . .

THE SPEAKER PRO TEMPORE: The Chair will count. Evidently a quorum is not present.

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll and the following Members failed to answer to their names: . . .

Automatic Yeas and Nays in Committee of the Whole

§ 2.7 The provisions of Rule XV clause 4,[3] which permit a Member to object to a vote where a quorum is not present, are applicable only in the House; an "automatic roll call" is not in order in the Committee of the Whole.

On Nov. 9, 1971,[4] during consideration of H.R. 10729, to amend the Federal Insecticide, Fungicide, and Rodenticide Act, Chairman William L. Hungate, of Missouri, ruled that an objection to a vote on the ground that a quorum was not present, under Rule XV clause 4, was not in order in the Committee of the Whole.[5]

The question was taken; and on a division (demanded by Mr. Evans of Colorado) there were—ayes 28, noes 65.

So the amendment to the substitute amendment was rejected.

MR. [FRANK E.] EVANS of Colorado: Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE CHAIRMAN: That parliamentary procedure is not in order in Committee of the Whole.

Motions for a Call of the House

§ 2.8 A motion for a call of the House does not require a quorum.

On June 5, 1946,[6] Speaker Sam Rayburn, of Texas, made a ruling regarding the need for a quorum on a motion for a call of the House under Rule XV clause 2.[7]

THE SPEAKER (after counting): Two hundred and ten Members are present, not a quorum.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I move a call of the House.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, on that I demand the yeas and nays.

---

[3] *House Rules and Manual* § 773 (1979).

[4] 117 CONG. REC. 40054, 92d Cong. 1st Sess.

[5] See also, for example, 116 CONG. REC. 42232, 42233, 91st Cong. 2d Sess., Dec. 17, 1970.

[6] 92 CONG. REC. 6352–56, 79th Cong. 2d Sess.

[7] See also 108 CONG. REC. 10389, 87th Cong. 2d Sess., June 13, 1962, for another illustration of this principle.

The yeas and nays were refused.

The Speaker: The question is on the motion for a call of the House.

The question was taken; and on a division (demanded by Mr. Rankin) there were—ayes 81, noes 13.

Mr. Smith of Virginia: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker: A quorum is not required in this instance.

So the motion was agreed to.

§ 2.9 Prior to adoption of the rules, whenever the absence of a quorum is ascertained, a motion for a call of the House is in order, the doors remain open while the roll is called alphabetically and, following the establishment of a quorum after the second call, further proceedings under the call may be dispensed with by unanimous consent [or by motion].

On Jan. 21, 1971,(8) during reading of a resolution adopting the rules, a motion for a call of the House was held to be in order.

The Speaker:(9) The Chair recognizes the gentleman from Mississippi.

Mr. [William M.] Colmer [of Mississippi]: Mr. Speaker, I offer a resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 5

Resolved, That the Rules of the House of Representatives of the Ninety-first Congress, together with all applicable provisions of the Legislative Reorganization Act of 1946, as amended, and the Legislative Reorganization Act of 1970, be, and they are hereby adopted as the Rules of the House of Representatives of the Ninety-second Congress, with the following amendments as part thereof, to wit:

In Rule X, renumber clause 4 and 5 as 5 and 6, insert a new clause 3 as follows: . . .

CALL OF THE HOUSE

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, I think this is of more than passing importance. The Members should hear this and, therefore, I make the point of order that a quorum is not present.

The Speaker: Evidently a quorum is not present.

Mr. [Richard] Bolling [of Missouri]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

The Speaker: On this roll call 395 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with. . . .

RULES OF THE HOUSE

The Speaker: The Clerk will proceed with the reading of the resolution.

---

8. 117 Cong. Rec. 13, 14, 92d Cong. 1st Sess.
9. Carl Albert (Okla.).

The Clerk read as follows:

> In Rule XI, strike out paragraph (a) of clause 27 and insert in lieu thereof the following:
>
> "(a) The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees and subcommittees."

§ 2.10 Parliamentarian's Note: An automatic call of the House does not result when less than a quorum votes on a motion ordering a call of the House, because under Rule XV clause 2(a)[10] [and art. I, § 5 of the Constitution][11] less than a quorum can compel the attendance of absent Members.

This principle may be illustrated by analogy to the following proceedings, which took place on June 13, 1962:[12]

CALL OF THE HOUSE

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER:[13] Evidently a quorum is not present.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I move a call of the House.

THE SPEAKER: Without objection, a call of the House is ordered.

MR. GROSS: Mr. Speaker, I object.

THE SPEAKER: The question is on the motion.

The question was taken; and the Speaker announced that the ayes appeared to have it.

MR. GROSS: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The Chair will state that this motion does not require the presence of a quorum.

Prerogatives of the Chair

§ 2.11 Where a motion for a call of the House is pending and an objection is made to ordering the call by unanimous consent, the Speaker immediately puts the question on the motion.

On June 13, 1962,[14] Speaker John W. McCormack, of Massachusetts, put to a vote a motion for a call of the House.

CALL OF THE HOUSE

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I move a call of the House.

THE SPEAKER: Without objection, a call of the House is ordered.

MR. GROSS: Mr. Speaker, I object.

---

[10] *House Rules and Manual* § 768 (1979).

[11] *House Rules and Manual* § 52 (1979).

[12] 108 CONG. REC. 10389, 87th Cong. 2d Sess.

[13] John W. McCormack (Mass.).

[14] 108 CONG. REC. 10389, 87th Cong. 2d Sess.

THE SPEAKER: The question is on the motion.

The question was taken; and the Speaker announced that the ayes appeared to have it.

§ 2.12 Where a point of order that a quorum was not present came too late to invoke an "automatic roll call" under Rule XV clause 4,(1) the Chair treated the objection as a point of order that a quorum was not present and entertained a motion for a call of the House under Rule XV clause 2(a).(2)

On May 31, 1972,(3) Speaker pro tempore Hale Boggs, of Louisiana, following proceedings whereby a motion to reconsider a vote was laid on the table, entertained a motion for a call of the House.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

THE SPEAKER PRO TEMPORE: The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MR. [SAMUEL L.] DEVINE [of Ohio]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

MR. BOLLING: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk proceeded to call the roll.

MR. DEVINE (during the call of the roll): Mr. Speaker, a point of order. Is this not an automatic rollcall on the rule?

THE SPEAKER PRO TEMPORE: The gentleman is incorrect. It is a quorum call.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HALL: Is it not true that the gentleman from Ohio objected to the vote on the ground that a quorum was not present and made a point of order that a quorum was not present, whereupon the Chair said that the rollcall was automatic?

THE SPEAKER PRO TEMPORE: The Chair had previously ruled that the resolution had been agreed to and that a motion to reconsider was laid on the table. Therefore, the Chair had no alternative except to rule on the point of order that a quorum was not present and order a quorum call, in view of the fact that the gentleman's objection to the vote came too late.

MR. DEVINE: Mr. Speaker, I was on my feet at the time the Chair made the statement that the question was on the resolution, and I raised the objection to the vote on the ground that a quorum was not present and made the point of order that a quorum was not present.

---

1. *House Rules and Manual* § 773 (1979).
2. *House Rules and Manual* § 768 (1979).
3. 118 CONG. REC. 19344, 92d Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The Chair was advised by the Parliamentarian that the Chair had previously ruled that the resolution had been agreed to and that a motion to reconsider had been laid on the table. The Chair had no alternative but to observe the gentleman's point of order that a quorum was not present, and a quorum call is now underway. The Clerk will continue to call the roll.

§ 2.13 The Speaker may refuse to entertain a point of no quorum if an immediately preceding roll call vote has disclosed a quorum to be present and no business has intervened.

On Apr. 14, 1937,(4) Speaker William B. Bankhead, of Alabama, overruled a point of no quorum.(5)

THE SPEAKER: Today is Calendar Wednesday. The Clerk will call the roll of committees.

AMENDMENT OF THE LONG-AND-SHORT-HAUL CLAUSE

MR. [CLARENCE F.] LEA [of California] (when the Committee on Interstate and Foreign Commerce was called): Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce, I call up the bill (H.R. 1668) to amend paragraph (1) of section 4 of the Interstate Commerce Act, as amended February 28, 1920 (U.S.C. title 49, sec. 4).

The Clerk read the title of the bill.

MR. [ALFRED L.] BULWINKLE [of North Carolina]: Mr. Speaker, I raise the question of consideration.

THE SPEAKER: The gentleman from North Carolina raises the question of consideration of the bill. The question is, Will the House consider the bill H.R. 1668.

The question was taken; and on a division (demanded by Mr. Lea) there were—ayes 152, noes 73.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

THE SPEAKER: The question is, Will the House consider the bill (H.R. 1668) to amend paragraph (1) of section 4 of the Interstate Commerce Act, as amended February 28, 1920 (U.S.C., title 49, sec. 4)?

The question was taken; and there were—yeas 278, nays 97, answered "present" 1, not voting 54, as follows: . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The House automatically resolves itself into the Committee of the Whole House on the state of the Union for the consideration of the bill.

MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Speaker, I make the point of order there is not a quorum present.

THE SPEAKER: The Chair feels compelled to overrule the point of order, as the recent vote discloses a quorum is present.

---

4. 81 CONG. REC. 3455, 3456, 75th Cong. 1st Sess.
5. See also 95 CONG. REC. 10095–97, 81st Cong. 1st Sess., July 25, 1949; and § 14, infra, which discuss points of no quorum when made to delay proceedings.

§ 2.14 The Speaker may not declare a recess during a roll call before the result is announced, even though the House has, by unanimous consent, previously given him authority to declare a recess at any time for the remainder of the week.

On Oct. 12, 1962,(6) Speaker John W. McCormack, of Massachusetts, refused to declare a recess while a roll call was in progress.

The Speaker: Does the gentleman from Missouri yield time to any Member?

Mr. [Clarence] Cannon [of Missouri]: No. I move the previous question.

The Speaker: Without objection, the previous question is ordered.

The question is on the motion offered by the gentleman from Missouri [Mr. Cannon] to recede and concur in the Senate amendment with an amendment.

The question was taken, and the Speaker announced that the noes appeared to have it.

Mr. Cannon: Mr. Speaker, I ask for the yeas and nays.

Mr. Speaker, I make the point of order that a quorum is not present and ask for the yeas and nays.

The Speaker: Does the gentleman object to the vote on the ground that a quorum is not present or ask for the yeas and nays?

Does the gentleman object to the vote?

Mr. Cannon: I make the point of order that a quorum is not present and ask for the yeas and nays.

The Speaker: The gentleman from Missouri makes the point of order that a quorum is not present and objects to the vote on the ground that a quorum is not present.

The Chair will count.

Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 84, nays 120, not voting 230, as follows: . . .

After completion of the first call of the roll and during the second call, several parliamentary inquiries were entertained, including the following:(7)

(The Clerk resumed calling the roll.)

Mr. [Edmond] Edmondson [of Oklahoma] (interrupting the rollcall): Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Edmondson: May a recess be declared in advance of the completion of the vote?

---

6. 108 Cong. Rec. 23433, 23434, 87th Cong. 2d Sess. The House agreed to a unanimous-consent request on Oct. 11, 1962, giving the Speaker the authority to declare recesses "at any time" for the remainder of the week. 108 Cong. Rec. 23207, 87th Cong. 2d Sess.

7. *Id.* at p. 23434.

THE SPEAKER: The Chair will state that in the present situation the Chair may not declare a recess with a rollcall in process.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask that the Chair announce the vote.

THE SPEAKER: On this vote, there were 84 yeas and 120 nays.

So a quorum is not present.

The motion was then made and agreed to that the House adjourn.

Interruption by Motions to Adjourn

§ 2.15 If a quorum fails to materialize on a yea and nay vote on a motion to adjourn decided in the negative, the House may proceed to establish a quorum under a call of the House which was in progress under Rule XV clause 2,⁽⁸⁾ when the motion to adjourn was made.

On Oct. 14, 1969,⁽⁹⁾ Speaker John W. McCormack, of Massachusetts, indicated the procedure to be followed after less than a quorum voted rejecting a motion to adjourn which had been entertained following failure of a quorum on a call of the House. (See § 10.2, infra.)

Proceedings Following Calls of the House

§ 2.16 Although a Member may not announce how an absent colleague would have voted on a roll call, there is no rule to prevent a Member from announcing the reasons for absence of his colleagues on a quorum call.

On Mar. 13, 1946,⁽¹⁰⁾ Speaker Sam Rayburn, of Texas, made a ruling regarding the announcement of reasons for absence from quorum calls.⁽¹¹⁾

MR. [MILTON H.] WEST [of Texas]: Mr. Speaker, this afternoon, at about 1:30 o'clock, there was a quorum call, No. 53. Many members of the Texas delegation did not answer that quorum call by reason of the fact that at that time they were attending a luncheon given in honor of that great Texan and great American, Admiral Chester W. Nimitz, commander of the fleet.

---

8. *House Rules and Manual* § 768 (1979).
9. 115 CONG. REC. 30054–56, 91st Cong. 1st Sess.
10. 92 CONG. REC. A–1422, 79th Cong. 2d Sess.
11. This ruling contradicts many earlier rulings; see 6 Cannon's Precedents § 200; 77 CONG. REC. 1139, 73d Cong. 1st Sess., Apr. 3, 1933; 77 CONG. REC. 2587, 73d Cong. 1st Sess., Apr. 28, 1933; 77 CONG. REC. 3834, 73d Cong. 1st Sess., May 20, 1933; 78 CONG. REC. 4691, 4700, 73d Cong. 2d Sess., Mar. 16, 1934; 81 CONG. REC. 3489, 3490, 75th Cong. 2d Sess., Apr. 14, 1937; and 81 CONG. REC. 3563, 75th Cong. 2d Sess., Apr. 15, 1937.

He was explaining to the delegation the needs of the future fleet of the United States. For that reason the following Members did not feel they should leave that meeting in order to answer a quorum call——

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I regret to raise the point, but the gentleman is not proceeding in order. I hope he will not start a procedure which will return to plague us in the future. All of us understand that no Member of the Texas delegation would fail to answer roll call unless he were fully warranted in being absent. . . .

THE SPEAKER:(12) . . . The gentleman from Texas [Mr. West] asked unanimous consent to proceed for 1 minute. It is the understanding of the Chair that he did not intend to announce how any Member voted. He was simply stating why some Members of the Texas delegation did not answer a quorum call about 1 o'clock.

MR. CANNON of Missouri: I reluctantly raise the point of order. . . .

It would set a precedent for resuming an objectionable custom which has long since been discontinued.

THE SPEAKER: The Chair believes that the gentleman from Texas, being authorized by the Members whose names he is about to call, would be allowed to state why they were not on the floor to answer a roll call. The Chair knows of no rule of the House that is being violated by that.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, I ask unanimous consent that the gentleman from Texas may proceed for one additional minute.

MR. CANNON of Missouri: Mr. Speaker, I regret to object. . . .

THE SPEAKER: The gentleman from Missouri objects. The time of the gentleman from Texas has expired. . . .

MR. [OREN] HARRIS [of Arkansas]: Mr. Speaker, I ask unanimous consent that the gentleman may be permitted to extend his remarks in the Record.

MR. CANNON of Missouri: I make the point of order that a quorum is not present.

THE SPEAKER: It is very necessary that some reports from the Committee on Rules be filed this afternoon.

MR. CANNON of Missouri: Mr. Speaker, I withhold the point of order.

§ 2.17 Where a quorum fails to develop on an automatic roll call under Rule XV clause 4,(13) the Chair need not announce the result of the vote other than to inform the House that a quorum has not been developed since under that rule the Chair may entertain a motion to adjourn "at any time after the roll call has been completed."

On Dec. 22, 1932,(14) Speaker John N. Garner, of Texas, made a statement regarding announcement of the vote on an automatic roll

---

12. Sam Rayburn (Tex.).

13. *House Rules and Manual* § 773 (1979).

14. 76 CONG. REC. 942, 943, 72d Cong. 2d Sess.

call on a pending motion to recommit.

Mr. [Oscar] De Priest [of Illinois]: Mr. Speaker, I object to the vote on the ground that there is not a quorum present.

The Speaker: Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absent Members, and the Clerk will call the roll. . . .

Mr. [Henry T.] Rainey [of Illinois]: Mr. Speaker, I move that the House do now adjourn.

Mr. [Bertrand H.] Snell [of New York]: Mr. Speaker, may we have the vote announced?

The Speaker: It has developed there is not a quorum present.

Mr. Snell: Mr. Speaker, what was the vote?

The Speaker: It is not necessary to give that out, so the Parliamentarian informs the Chair, but the Chair may announce that so far the vote is—yeas 110, nays 95. There is not a quorum present.

The gentleman from Illinois moves that the House do now adjourn.

Failure of Quorum to Vote

§ 2.18 Instance where immediately after the Speaker counted a quorum, a quorum failed to vote, by a division vote, on an amendment. In response to a point of order, the Speaker ruled that he observed that a quorum remained present when the vote was taken and the Chair was not responsible if all Members did not vote.

On Apr. 2, 1943,(15) during consideration of H.R. 2087, the War Security Act, Speaker Sam Rayburn, of Texas, held that a quorum was present.

The Speaker: The Chair will count. [After counting.] Two hundred and nineteen Members are present, a quorum.

The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken; and the Chair being in doubt, the House divided, and there were—ayes 62, noes 112.

Mr. [Harry] Sauthoff [of Wisconsin]: Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The Speaker: The Chair has just counted, and a quorum was present. The Chair is not responsible if all Members in the House do not vote. The Chair must hold that a quorum is present.

So the amendment was rejected.

Parliamentarian's Note: The fact that a quorum does not vote on an amendment does not necessarily indicate that a quorum is not present.

---

15. 89 Cong. Rec. 2886, 78th Cong. 1st Sess.

Instructions to Sergeant at Arms

§ 2.19 Where a quorum fails to appear on a call of the House, a motion to instruct the Sergeant at Arms to bring in absentees is in order.

On Oct. 14, 1969[16] Speaker John W. McCormack, of Massachusetts, responded to a parliamentary inquiry on the propriety, in the absence of a quorum, of sending the Sergeant at Arms to bring in absent Members.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, a parliamentary inquiry.

Mr. Speaker, would it be in order at that point to move that the Speaker instruct the Sergeant at Arms to bring in Members who are absent?

THE SPEAKER: The Chair will state that if the House fails to adjourn, a motion to that effect would be in order.

Legislative Signal Lights and Bells

§ 2.20 The Speaker announced to the House his directive that the House legislative electric bell and light signals be altered to distinguish between recorded votes in the House and quorum calls in the House or in Committee of the Whole.

On Jan. 21, 1970,[1] Speaker John W. McCormack, of Massachusetts, issued a directive that signal bells be used to distinguish between recorded votes and quorum calls:

THE SPEAKER: The Chair would like to make an announcement.

On January 3, 1969, the House adopted an amendment to rule XV, clause 1, that eliminated the necessity for Members to "qualify" on a yea-and-nay vote. Since that time several Members have asked the Chair if it would be possible to make a signal system distinction between a yea-and-nay vote—either a constitutional vote or a vote under clause 4, rule XV—and a call of the House.

The Chair has given careful consideration and study to the matter and has reached the conclusion that the change would be of benefit to the Members. Accordingly, starting today, the Chair has directed that on all recorded votes the bells will be rung twice. On quorum calls, either in the House or in Committee of the Whole, the bells will be rung three times.

For the convenience of Members the Chair will insert in the Record at this point a revised schedule of the signal system:

HOUSE LEGISLATIVE ELECTRIC BELL AND LIGHT SIGNALS

Tellers: 1 ring and light on left.

Yeas and Nays (either when ordered by one-fifth of those present or under Rule XV, cl 4): 2 rings and lights on left.

---

[16] 115 CONG. REC. 30054–56, 91st Cong. 1st Sess.

[1] 116 CONG. REC. 612, 91st Cong. 2d Sess.

Call of House; No quorum in Committee of the Whole: 3 rings and lights on left.

Adjournment: 4 rings and lights on left.

Recess: 5 rings and lights on left.

Civil Defense Warning: 6 rings and lights on left.

(The light on the far right—7—indicates that the House is in session.)

§ 2.21 In a statement preceding introduction of the electronic voting system, the Speaker announced a revised schedule of the electric bell and light signals, including a provision for quorum calls.

On Jan. 15, 1973,(2) Speaker Carl Albert, of Oklahoma, announced a revised schedule of legislative electric bell and light signals.

> The Chair has directed that the bell and light system be utilized in the following manner:
>
> One bell indicates a teller vote, taken in accordance with clause 5, Rule I (Members indicate their preference by walking up the center aisle and [being] counted by Members who are named as tellers by the Chair. This is not a recorded vote).
>
> Two bells indicate an electronically recorded vote, either demanded under the Constitution by one-fifth of those present (in the House) or by one-fifth of a quorum under clause 5, Rule I (either in the House or in Committee of the Whole). Two bells may also indicate a recorded vote under clause 5 Rule I whenever Members are to record their votes by depositing ballot cards in the "aye" or "no" boxes. *The two bells will be repeated five minutes after the first ring* to give Members a second notice of the vote in progress.
>
> Two bells, a brief pause, followed by two bells indicates a yea and nay vote taken under the provisions of Rule XV, clause 1, by a call of the roll. *The bells will be sounded again when the Clerk reaches the "R's" in the first call of the roll.*
>
> Three bells indicate a quorum call, either by means of the electronic system (Rule XV, clauses 2 and 5) or by means of tellers (Rule XV, clause 2(b)). *The bells will be repeated five minutes after the first ring* to give Members a second notice of the quorum call in progress.
>
> Four bells indicate an adjournment of the House.
>
> Five bells indicate a recess of the House.
>
> Six bells indicate a civil defense warning.

Parliamentarian's Note: The legislative call system was designed to alert Members to certain occurrences on the floor of the House. More recently, Speaker Thomas P. O'Neill, of Massachusetts, has directed that the bells and lights comprising the system be utilized as follows (125 Cong. Rec. ——, 96th Cong. 1st Sess., Jan. 23, 1979):

> Tellers—one ring and one light on left.
>
> Recorded vote, yeas and nays, or

---

2. 119 Cong. Rec. 1055–57, 93d Cong. 1st Sess.

automatic rollcall vote taken either by electronic system or by use of tellers with ballot cards—two bells and two lights on left indicate a vote in House or in Committee of the Whole by which Members are recorded by name. Bells are repeated five minutes after the first ring.

Recorded vote, yeas and nays, or automatic rollcall electronic vote on recommittal to be immediately followed by possible five-minute vote on final passage (cl. 5, Rule XV)—two bells rung at beginning of motion to recommit, followed by five bells, indicate that Chair will order five-minute vote if recorded vote, yeas and nays or automatic vote is ordered immediately thereafter on final passage or adoption. Two bells repeated five minutes after first ring.

Recorded vote, yeas and nays, or automatic rollcall by call of the roll—two bells, followed by a brief pause, then two bells indicate such a vote taken under the provisions of Rule XV, clause 1, by a call of the roll in the House. The bells are repeated when the Clerk reaches the "R's" in the first call of the roll.

Regular quorum call—three bells and three lights on left indicate a quorum call either in the House or in Committee of the Whole by electronic system or by clerks. The bells are repeated five minutes after the first ring. Where quorum call is by call of the roll, three bells followed by a brief pause, then three more bells, with the process repeated when the Clerk reaches the "R's" in the first call of the roll, are utilized.

Regular quorum call in Committee of Whole, which will possibly be immediately followed by five-minute electronic recorded vote (cl. 2, Rule XXIII)—three bells rung at beginning of quorum call, followed by five bells, indicate that Chair will order five-minute vote if recorded vote is ordered on pending question. Three bells repeated five minutes after first ring.

Notice or short quorum call in Committee of the Whole—one long bell followed by three regular bells, and three lights on left, indicate that the Chair has exercised his discretion under cl. 2 Rule XXIII and will vacate proceedings when a quorum of the Committee appears. Bells are repeated every five minutes unless (a) the call is vacated by ringing of one long bell and extinguishing of three lights, or (b) the call is converted into a regular quorum call and three regular bells are rung.

Adjournment—four bells and four lights on left.

Any five-minute vote—five bells and five lights on left.

Postponed votes on (a) motions to suspend the rules (cl. 3, Rule XXVII); (b) on "clustered" rules from Rules Committee (cl. 4(e), Rule XI); or (c) on "clustered" final votes on bills, resolutions or conference reports (cl. 5(b), Rule I)—two bells, followed by five bells, indicate start of fifteen-minute vote on first postponed question in each such series. Two bells repeated five minutes after first ring. Five bells on all subsequent five-minute votes in each series on which Speaker has reduced vote time.

Recess of the House—six bells and six lights on left.

Civil Defense Warning—twelve bells, sounded at two-second intervals, with six lights illuminated.

Interpretation of "Vacating Proceedings" Under Rule XV Clause 4

§ 2.22 Where a quorum has failed to develop on an automatic roll call under Rule XV clause 4,[3] and the House has adjourned, the provision in the rule that proceedings be "vacated" has been construed to mean the voiding of the proceedings incident to such call, and not to mean deletion of the proceedings from the Record and the Journal.

On Dec. 23, 1932,[4] and Dec. 27, 1932,[5] the interpretation of the word "vacate" in Rule XV clause 4, and the effect of vacating proceedings for purposes of the Journal and Record were discussed.

The Journal of the proceedings of yesterday was read.

THE SPEAKER:[6] Without objection, the Journal will stand approved.

MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, reserving the right to object, I would like to ask the Speaker if the Journal shows a record of the roll call on the motion to recommit when the point of no quorum was developed immediately before the adjournment of the House yesterday. The Record does not.

THE SPEAKER: The Journal does not show the roll call on the motion to recommit.

MR. MAPES: Then, Mr. Speaker, I desire to call the Speaker's attention and the attention of the House to the Journal and the Record and to ask for a correction of both.

Mr. Speaker, in this connection, I desire to say that in looking over the Record this morning I saw that the roll call was not in the Record, and I assumed that its omission was merely an oversight. . . .

MR. [WILLIAM B.] BANKHEAD [of Alabama]: I did not fully understand the gentleman's request. Does the gentleman propose to ask the Speaker to have the Journal corrected?

MR. MAPES: Yes; the Journal and the Record. As I was saying, when I noticed the omission of the roll call in the Record, I assumed the omission was an oversight, but a short time ago I took occasion to call the Parliamentarian and was assured by him that its omission was not an oversight. . . .

I am told by the Parliamentarian that the basis for the omission is contained in the last sentence of Rule XV, subsection 4, which says that when a situation is developed such as was developed yesterday that all proceedings under this section shall be vacated. I will read the entire sentence:

> At any time after the roll call has been completed, the Speaker may entertain a motion to adjourn, if

---

[3] *House Rules and Manual* § 773 (1979).

[4] 76 CONG. REC. 980, 981, 983, 984, 72d Cong. 2d Sess.

[5] *Id.* at pp. 986, 987.

[6] John N. Garner (Tex.).

> seconded by a majority of those present, to be ascertained by actual count by the Speaker; and if the House adjourns, all proceedings under this section shall be vacated.

What the proper construction of the last clause in that sentence is may be open to some argument, but to me it is a violent construction of it to construe it to mean that an actual roll call in the House of Representatives shall not be recorded in the Journal. . . .

MR. BANKHEAD: Mr. Speaker, I would like to be heard briefly on the proposition. As the gentleman from Michigan has well said, this might be a matter of considerable importance because of the dignity of the Journal as showing the historical proceedings of the House of Representatives.

The gentleman from Michigan has well pointed out that the Constitution does provide that—

> The House shall keep a Journal of its proceedings and from time to time publish the same except such parts as may in their judgment require secrecy.

But that provision of the Constitution does not directly or by implication go to the extent of saying that the House has not the right to control the interpretation and say what entries in the Journal, shall be made.

The Manual, section 71, says:

> The House controls its Journal and may decide what are proceedings, to the extent of omitting things actually done or recording things not done.

The rule that the gentleman from Michigan referred to a few minutes ago is not susceptible of any ambiguous construction. It is plain, simple, direct, and is mandatory in its provisions. An automatic roll call was had, a motion to adjourn, seconded by a majority of those present by actual count by the Speaker, and up to that point the requirements of the rule were actually complied with in all details; but the rule goes further, and this is the section which governs the proper construction of the situation by the Speaker:

> And if the House adjourn—

Which it did do under the preceding sections—

> all proceedings under this section shall be vacated. . . .

THE SPEAKER: The Chair is ready to make a statement, if not a ruling.

During the last Congress the late Speaker Longworth, in a conversation with me, paid the Parliamentarian a very high compliment as to his philosophy and accuracy in trying to maintain the integrity of the rules of the House of Representatives. The result was that when I became Speaker I continued his services, and I have found him to be very capable.

This rule we are considering may be a bad rule; and if we were considering it originally, I am not certain that I would support it, but that it is a part of the rules of the House of Representatives there can be no question.

The rule not only says that the proceedings shall all be vacated but is followed by other matter. The rule was adopted in 1896. It applies only to votes where a quorum is required; that is, the rule would vacate a vote if a quorum failed and the House adjourned. The rule, of course, does not apply to a motion to adjourn, since it does not require a quorum to agree to that motion. Now, to make the illustration: If the motion yesterday had been to adjourn, and no quorum developed on that motion, the vote would have appeared in the Journal; but it was not a motion to adjourn, it was a motion where a quorum was required, to wit, a motion to recommit the bill to the committee with instructions to report it back forthwith.

There was no legal action on that motion yesterday, and it seems to the Chair that under the circumstances the proceedings were void by reason of this language of the rule:

> If the House adjourns, all proceedings under this section shall be vacated.

The Chair does not know what this language can mean unless it means that where a quorum failed on an automatic roll call and the House adjourned the entire proceedings relating to the call shall be vacated. What can it possibly mean other than to vacate the proceedings? And that, of course, includes the roll call.

The gentleman from Alabama called attention to the definition of "vacate" found in Webster's Dictionary. The Parliamentarian calls the Chair's attention to the definition appearing in Bouvier's Law Dictionary, which is:

> To render null and void; to vacate an entry which has been made on a record.

That is exactly what was done in this case.

The Chair repeats again, this may be a bad rule, and its philosophy may be wrong, but it is a rule of the House, and that the Parliamentarian has complied with the rules of the House there is no doubt in the Speaker's mind.

The Speaker wants it understood that he is not wedded to this conclusion, and it is a matter for the House to determine itself what construction it will place in this particular rule. The Chair has no pride in it whatever; and if it is the wish of the House to allow it to go over until next Tuesday so we can look into it and philosophize about it, the Chair would not be opposed to such action.

Mr. [Bertrand H.] Snell [of New York]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Snell: If the Speaker says that the motion will be in order on next Tuesday, I am perfectly willing to give him such time to look into the matter further. I think it is important that this question should be decided right for all time, because it is very important in so far as the proceedings of the House are concerned.

The Speaker: The Chair will recognize the gentleman from New York to make the motion now, if he desires to make it.

Mr. Snell: Mr. Speaker, perhaps it would be a good idea for me to make the motion and have it pending. Would that be proper?

Mr. Bankhead: Will the gentleman yield?

Mr. Snell: Yes.

Mr. Bankhead: The question arises, I respectfully suggest, whether it would be in order to entertain that motion.

In the absence of a quorum, officially shown on the record, there is a constitutional inhibition against any proceedings. I have no objection myself, of course.

MR. SNELL: This is a new legislative day, and there has been no development of a quorum and no one has raised the issue.

MR. BANKHEAD: I am in entire accord with the suggestion of the gentleman, but I do have serious doubt whether we could properly consider it in the absence of a quorum.

MR. SNELL: If the Chair is willing, I will make the motion with the understanding it will not be taken up to-day but will be pending.

THE SPEAKER: Let the Chair point out what the parliamentary situation would be next Tuesday. We have one motion pending at the present time as the unfinished business, to wit, the motion to recommit. If the gentleman makes a motion to correct the Journal, that would be the first business on Tuesday, as the Chair would interpret it.

MR. SNELL: I would expect so.

THE SPEAKER: Therefore, there would be pending on next Tuesday two propositions, one following the other: First, the approval of the Journal of yesterday's proceedings, and second, the motion to recommit the bill to the committee with instructions to report it back forthwith.

Let the Chair suggest to the gentleman from New York that we can adjourn, if the House desires, at the present time, and the Chair will recognize the gentleman from New York on next Tuesday to move to correct the Journal of the proceedings of yesterday. . . .

ADJOURNMENT

MR. [HENRY T.] RAINEY [of Illinois]: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 42 minutes p.m.) the House adjourned to meet, in accordance with its previous order, on Tuesday, December 27, 1932, at 12 o'clock noon.

On Dec. 27, 1932,(7) the following occurred immediately after the prayer:

CORRECTION OF THE JOURNAL OF THURSDAY, DECEMBER 22

MR. SNELL: Mr. Speaker, I ask unanimous consent to correct the Journal of Thursday, December 22, and also the permanent Record of that same day by inserting in the same a record of the proceedings on a roll call on the motion to recommit made by the gentleman from Illinois [Mr. De Priest] in connection with the Interior Department appropriation bill.

THE SPEAKER: The gentleman from New York asks unanimous consent that the Journal and the permanent Record of last Thursday's proceedings be corrected so as to include the roll call on the motion to recommit the Interior Department appropriation bill.

MR. SNELL: And pending that I would like to make a brief statement. I want to say that I have found an exact precedent, entirely on all fours

---

7. 76 CONG. REC. 986, 987, 72d Cong. 2d Sess.

with the situation which arose in the House last Thursday.

These proceedings took place under another distinguished Democratic Speaker, the Hon. Champ Clark, and the Hon. Claude Kitchin as majority leader, and show that we were correct in the position that we took on this side of the House last Friday. Therefore I think they ought to go in the Record at this time in order to clear up any situation of a like nature that may arise in the future.

This situation arose on February 3, 1919. The gentleman from Rhode Island, Mr. O'Shaunessy, made a motion to suspend the rules and pass a bill that had to do with the salaries of the Federal judges in Rhode Island. After the motion and some debate—I will read from the Record:

> THE SPEAKER: The question is on suspending the rules and passing the bill.
>
> The question was taken.
>
> THE SPEAKER: In the opinion of the Chair two-thirds——
>
> MR. WALSH: Mr. Speaker, I make the point of order that there is no quorum present.
>
> THE SPEAKER: The gentleman from Massachusetts makes the point that there is no quorum present, and evidently there is not. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. The question is on suspending the rules and passing the bill.
>
> The question was taken; and there were—yeas 113, nays 96, answered "present" 4, not voting 216.

Then the names of those voting "yea," those voting "nay," and those not voting appear in the Record.

> MR. KITCHIN: I move that the House do now adjourn.

The motion was agreed to and the House adjourned.

Now, that is exactly on all fours with the situation in the House last week. I may say also that the Journal is the same as the Record, except that the names of the absentees are not recorded in the Journal. I think, Mr. Speaker, it is proper that this request should be granted, and I understand that my request is acquiesced in by the majority leader.

MR. RAINEY: Mr. Speaker, reserving the right to object, I think the Speaker's interpretation of the rule is absolutely correct. If the rule is not plain enough to carry out the suggestions of the Speaker, I think it ought to be made so. The rule may need some clarifying in the next Congress. I see no objection to publishing these names. I hope there will be no objection to the request of the gentleman from New York.

THE SPEAKER: Is there objection to the request of the gentleman from New York [Mr. Snell]?

There was no objection.

THE SPEAKER: The Chair asks unanimous consent of the House that the Speaker be permitted to extend his remarks concerning this question. Is there objection?

There was no objection.

THE SPEAKER: The Chair in ruling on this question on Friday last stated his views relative to the construction to be placed on the provisions of clause 4 of Rule XV. The Chair has since that time given additional thought to the question raised by the gentleman from Michigan [Mr. Mapes]. It seems to the Chair that the language embodied in the last sentence of clause 4 of Rule

XV, to wit, "If the House adjourns, all proceedings under this section shall be vacated," should not be disregarded. The present occupant of the chair endeavored to ascertain what that language could mean with respect to the rule now under consideration. The Chair believes that without the language, "And if the House adjourns, all proceedings under this section shall be vacated," the vote would have been void if a quorum failed on the vote. So that if the purpose of the language was merely to void the vote it was unnecessary. The Chair can not conceive of superfluous language being placed in any rule, and the Chair in this instance certainly does not think the above-quoted language is superfluous. Now, if the Chair is correct so far in his interpretation of the rule, the Chair will pursue the subject further. If the language is not necessary in order to void the vote where a quorum fails, then it must mean that the record of the proceedings is vacated and made of no effect, and consequently has no place in the Journal. In that connection the Chair may state that it has been the uniform practice in the past not to include in the Journal the proceedings whereby a certain action of the House has been vacated when the request to vacate occurs on the same day that the action sought to be vacated occurred. For instance, where the House passes a bill on a certain day and later on during the same day a Member requests that the proceedings whereby the bill has been engrossed, read a third time, and passed be vacated in order that an amendment may be placed in the bill, and such request is granted and the amendment is then adopted, the bill engrossed and read a third time and passed, the Journal does not show the proceedings whereby the original action was vacated, but merely shows that the bill was considered, amended, engrossed, read a third time, and passed. In other words, the Journal shows the final action and not the incidental things that occur in consummating that action. The Chair thinks that that is an analogous case and that the same reasoning should apply in the question that has arisen.

The Chair in making this statement does not want it interpreted as meaning that he is in sympathy with the legal construction he has placed on the rule. The present occupant of the chair has always been in favor of giving the widest publicity to all the proceedings of government. The Chair wants it distinctly understood that he has ruled only on the legal aspects of the question. The Chair is not in sympathy with any rule that tends to make secret any governmental proceedings, but the Chair can not permit the merits of a particular rule to influence him in the legal construction of it. The Chair makes this statement merely to explain the reasons governing the Chair in the making of his ruling on last Friday. The House by agreeing to the request of the gentleman from New York [Mr. Snell] has indicated that its interpretation of the rule is such as to permit the publication of the proceedings in the Journal as well as the Record.

THE JOURNAL

THE SPEAKER: Without objection, the Journal of the proceedings of

Thursday, December 22, 1932, will be approved.

There was no objection.

THE SPEAKER: The Clerk will read the Journal of Friday, December 23, 1932.

MR. MAPES: Mr. Speaker, before that is done may I rise to a parliamentary inquiry?

THE SPEAKER: Certainly. The gentleman will state it.

MR. MAPES: In connection with the proceedings relating to the correction of Thursday's Journal. Inasmuch as the unanimous consent of the minority leader has been agreed to, the Record of last Thursday will be corrected accordingly, but in view of the statement of the majority leader, it seems to me that the situation is left in a somewhat indefinite condition so far as the interpretation of the rule is concerned, and what the duty of the Journal clerk may be in similar cases arising in the future. I think it would be interesting to have the decision of the Speaker in respect to that. Suppose the same situation should develop to-day, for instance.

THE SPEAKER: The Chair would carry out the will of the House as expressed to-day in the proceedings.

MR. MAPES: That is, that the full proceedings would be incorporated in the Journal?

THE SPEAKER: Yes. If the same question arises again, the names will be included in the Journal and the Record.

§ 2.23 During a quorum call under Rule XV clause 2(a),[8] the Speaker has no authority to entertain a unanimous-consent request to vacate proceedings under the call.

On Oct. 18, 1972,[9] during consideration of a conference report on S. 3939, the Federal-aid Highway Act, and the day on which the House adjourned *sine die*, Speaker Carl Albert, of Oklahoma, responded to a unanimous-consent request to vacate a call of the roll.

MR. [JOHN T.] MYERS [of Indiana]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count. One hundred twelve Members are present, not a quorum.

MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

MR. [WILBUR D.] MILLS of Arkansas: Mr. Speaker, a parliamentary inquiryi

THE SPEAKER: The gentleman wll. state it.

MR. MILLS of Arkansas: Mr. Speaker, will the Speaker entertain a unanimous-consent request that the call of the roll be vacated.

THE SPEAKER: The Speaker does not have that authority under the Constitution.

If there are any Members in the Chamber who have not answered and the Speaker can identify them, he will have them recorded. The Speaker does have that authority, but he does not know of any such Members.

---

[8] See *House Rules and Manual* § 768 (1979).

[9] 118 CONG. REC. 37199, 92d Cong. 2d Sess.

Automatic Call After Vacating Passage of Bill

§ 2.24 The House, having passed a bill by voice vote, vacated the proceedings by unanimous consent; the question on passage was again put and a quorum not being present, a roll call was automatic under Rule XV clause 4.(10)

On Oct. 5, 1962,(11) during consideration of S. 1447, to amend the Teachers' Salary Act for the District of Columbia, an automatic roll call was held.

> THE SPEAKER:(12) The question is on the committee amendment.
>
> The committee amendment was agreed to.
>
> The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table. . . .
>
> MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I would like to inquire whether or not there are further conference reports or unanimous-consent requests to be considered this evening.
>
> MR. [JOHN L.] McMILLAN [of South Carolina]: I have one more bill I desire to call up from the Committee on the District of Columbia.
>
> MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.
>
> THE SPEAKER: The bill has already passed.
>
> MR. FULTON: Mr. Speaker, I was on my feet.
>
> THE SPEAKER: The Chair will state that if a Member is on his feet, that is insufficient. The gentleman did not address the Chair.
>
> MR. FULTON: I was saying "Mr. Speaker," and was not heard. I was on my feet.
>
> THE SPEAKER: If the gentleman asks unanimous consent to vacate the action, the Chair will entertain a request. But the passage of the bill had been completed.
>
> MR. FULTON: Mr. Speaker, I was on my feet addressing the Speaker, but I was not recognized.
>
> THE SPEAKER: The Chair does not know what is in the gentleman's mind when the gentleman is on his feet.
>
> MR. FULTON: I was saying "Mr. Speaker," right straight through. I am sure it is the custom of the House to be recognized when a point of order is being made.
>
> THE SPEAKER: Without objection, the action whereby the bill was passed will be vacated.
>
> There was no objection.
>
> THE SPEAKER: The question is on the passage of the bill.
>
> The question was taken, and the Speaker announced that the ayes appeared to have it.

---

10. *House Rules and Manual* § 773 (1979).
11. 108 CONG. REC. 22649, 22650, 87th Cong. 2d Sess.
12. Sam Rayburn (Tex.).

MR. FULTON: Mr. Speaker——

THE SPEAKER: For what purpose does the gentleman from Pennsylvania rise?

MR. FULTON: I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count. Does the gentleman insist upon his point of order?

MR. FULTON: Yes, Mr. Speaker.

THE SPEAKER: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

Senate Precedents

§ 2.25 The Presiding Officer of the Senate, as a Member of that body, may suggest the absence of a quorum.

On July 16, 1965,(13) the authority of the Presiding Officer was discussed.

MR. [SPESSARD L.] HOLLAND [of Florida]: Mr. President, will the Senator yield?

MR. [WAYNE L.] MORSE [of Oregon]: I yield.

MR. HOLLAND: Is it not a fact, although not frequently practiced, that the Presiding Officer of the Senate, in the event of an emergency or for any reason satisfactory to himself, can suggest the absence of a quorum?

MR. MORSE: Yes; that is another procedure that may be followed. I am not critical because it was not followed. I am only pointing out, for precedential reference, that either procedure would have prevented the situation that developed.

MR. HOLLAND: Mr. President, will the Senator yield further?

MR. MORSE: I yield to the Senator from Florida.

MR. HOLLAND: I am not making my comments in criticism of anyone. I was in the Senate a long time before I knew that a Senator when acting as the Presiding Officer of the Senate could suggest the absence of a quorum. I wanted to bring that point into the debate so that it will be clearly apparent for all Senators who have the onerous duty of presiding at embarrassing times to themselves. That is a well settled rule, as I understand, and if the Presiding Officer and the Senator from Oregon will yield, I should like to address a parliamentary inquiry to have that point incorporated in the Record.

THE PRESIDING OFFICER:(14) The Senator from Florida is correct.

MR. HOLLAND: Will the Chair restate that ruling?

THE PRESIDING OFFICER: The Presiding Officer, as a Member of the Senate, may suggest the absence of a quorum at an appropriate time.

MR. HOLLAND: I thank the Chair.

§ 2.26 When the Senate convenes following an adjournment taken in the absence of a quorum, the first order of business is the

---

(13) 111 CONG. REC. 17103, 17104, 89th Cong. 1st Sess.

(14) Daniel K. Inouye (Hawaii).

establishment of a quorum and the Presiding Officer directs the roll to be called.

On Sept. 23, 1968,[15] a quorum was established.

CALL OF THE ROLL

THE PRESIDENT PRO TEMPORE:[1] The Senate having adjourned on Friday, September 20, 1968, in the absence of a quorum, the clerk will call the roll to ascertain the presence of a quorum.

The bill clerk called the roll, and the following Senators answered to their names. . . .

THE PRESIDING OFFICER:[2] A quorum is not present.

MR. [MICHAEL J.] MANSFIELD [of Montana]: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

THE PRESIDING OFFICER: The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names: . . .

THE PRESIDING OFFICER: A quorum is present.

§ 2.27 The Senate having recessed in the absence of a quorum, the Vice President directed a quorum call when the Senate reconvened.

On July 28, 1962,[3] Vice President Lyndon B. Johnson, of Texas, ordered a quorum call after the Senate reconvened following a recess.

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Vice President. . . .

CALL OF THE ROLL

THE VICE PRESIDENT: The Senate having taken a recess last night in the absence of a quorum, no business can be transacted until a quorum is present.

The clerk will therefore call the roll for the purpose of developing a quorum.

The legislative clerk called the roll; and the following Senators answered to their names: . . .

§ 2.28 Where the Senate recesses over the weekend because of lack of a quorum, the Vice President at the next meeting of that body causes the roll to be called to secure a quorum.

On Mar. 7, 1938,[4] Vice President John N. Garner, of Texas, commented on the procedure following a recess.

---

[15] 114 CONG. REC. 27814, 27815, 90th Cong. 2d Sess.

[1] Carl Hayden (Ariz.).

[2] Howard W. Cannon (Nev.).

[3] 108 CONG. REC. 14952, 87th Cong. 2d Sess.

[4] 83 CONG. REC. 2903, 2904, 75th Cong. 3d Sess.

THE VICE PRESIDENT: The Chair has examined the Record and finds that when the Senate took a recess on Friday last no quorum was present. The Chair, therefore, thinks it is his duty to direct the clerk to call the roll for the purpose of securing a quorum, for the Senate begins now just where it left off last Friday.

The Chief Clerk called the roll, and the following Senators answered to their names: . . .

THE VICE PRESIDENT: Eighty-six Senators have answered to their names. A quorum is present.

§ 3. The Chair's Count; Names Included on Calls

Following the historic decision of Speaker Thomas B. Reed, of Maine, in 1890,(5) the House adopted Rule XV clause 3,(6) which provides that on the demand of any Member or at the suggestion of the Speaker, those Members present in the Hall of the House who do not vote may nevertheless be counted in determining the presence of a quorum; moreover, under Rule XV clause 4,(7) the Speaker, in determining the presence of a quorum, is authorized to include Members who do not vote. In practice, the Speaker counts all Members he can see, including those leaving the Chamber(8) and those behind the railing.(9)

Inclusion on the Roll

§ 3.1 Parliamentarian's Note: Where a Representative-elect dies before the House convenes, his name is included on the roll call by states to establish a quorum [and on subsequent calls] until the House is informed of his death.

On Jan. 10, 1967,(10) the name of Representative-elect John E. Fogarty, of Rhode Island, who had died in his office shortly before the House was to convene on Jan. 10, was included on the call of the states to establish a quorum since his certificate of election was on file with those of the other Members-elect. Following this roll call, the Clerk announced the death to the House and Representative-elect

---

5. Speaker Reed directed the Clerk to enter on the Journal as part of a yea and nay vote the names of Members who were present but did not vote, thereby establishing a quorum of record. 4 Hinds' Precedents § 2895.
6. *House Rules and Manual* § 772 (1979); see 4 Hinds' Precedents § 2905 for a discussion of adoption of this clause.
7. *House Rules and Manual* § 773 (1979). See also § 3.9, infra.
8. § 3.5, infra.
9. § 3.6, infra.
10. 113 CONG. REC. 11, 12, 90th Cong. 1st Sess.

Fogarty's name was removed from subsequent calls.

The Clerk: Representatives-elect to the 90th Congress, pursuant to the 20th amendment of the Constitution and to Public Law 89–704 of the 89th Congress, this is the day fixed for the meeting of the 90th Congress.

As the law directs, the Clerk of the House has prepared the official roll of the Representatives-elect.

Credentials covering the 435 seats in the 90th Congress have been received and are now on file with the Clerk of the 89th Congress.

The names of those persons whose credentials show they were regularly elected in accordance with the laws of the several States and of the United States will be called; and as the roll is called, following the alphabetical order of the States, beginning with the State of Alabama, Representatives-elect will answer to their names to determine whether or not a quorum is present.

The reading clerk will call the roll.

The Clerk called the roll by States and the following Representatives-elect answered to their names: . . .

[*Parliamentarian's Note:* The name of Fogarty was called when the Clerk reached the state of Rhode Island in the call.]

The Clerk: The rollcall discloses that 434 Representatives-elect have answered to their names.

A quorum is present. . . .

VACANCY IN THE SECOND DISTRICT OF RHODE ISLAND

The Clerk: The Clerk also wishes to announce there is a vacancy in the Second District of Rhode Island occasioned by the recent death of the Honorable John E. Fogarty.

§ 3.2 During a call of the roll by states to determine the presence of a quorum at the opening of a Congress, the Clerk announced receipt of the Proclamation of Alaskan Statehood and directed that names of Members-elect from Alaska be called.

On Jan. 7, 1959,[11] at the commencement of the 86th Congress, the Member from Alaska was included in the roll call by states after the proclamation of statehood was announced.

CALL OF THE ROLL

The Clerk: Representatives-elect of the 86th Congress, this is the day fixed by law, pursuant to the Constitution of the United States, for the meeting of the 86th Congress and, as the law directs, the Clerk of the House has prepared the official roll of the Representatives-elect. Certificates of election covering the 436 seats in the 86th Congress have been received and are now on file with the Clerk of the 85th Congress. The names of those persons whose credentials show they were regularly elected in accordance with the laws of the several States and of the United States will be called.

As the roll is called, following the alphabetical order of the States, beginning with the State of Alabama,

---

[11] 105 Cong. Rec. 11, 86th Cong. 1st Sess.

Representatives-elect will answer to their names to determine whether a quorum is present.

The reading clerk will call the roll by States.

The reading clerk called the roll by States, and the following Representatives-elect answered to their names: . . .

THE CLERK: A certified copy of the Presidential proclamation indicating that the Territory of Alaska has qualified as a State pursuant to provisions of law has been received.

The clerk will proceed.

ALASKA

Rivers, Ralph J. (at large) . . .

§ 3.3 Parliamentarian's Note: Members-elect, elected to fill vacancies occurring in the first session, are not included on the roll call to ascertain the presence of a quorum when the second session convenes; their names are included on the roll only after their certificates of election have been laid before the House and the oath has been administered to them.

On Jan. 10, 1966,[12] the Clerk omitted the names of Members-elect on the first call of the House.

CALL OF THE HOUSE

THE SPEAKER PRO TEMPORE:[13] The Clerk will call the roll to ascertain the presence of a quorum.

The Clerk called the roll, omitting the names of Members-elect Clarence J. Brown, Jr., of Ohio, and Thomas M. Rees, of California. Following presentation of their certificates of election, the Members-elect took the oath.

SWEARING IN OF MEMBERS

Mr. Clarence J. Brown, Jr., and Mr. Rees appeared at the bar of the House and took the oath of office.

Who Is Counted

§ 3.4 In determining the presence of a quorum, the Chair counts Members present but not voting.

On Aug. 13, 1940,[14] Speaker William B. Bankhead, of Alabama, counted Members who were present but had not voted on a division.

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, I move the previous question on the resolution [H. Res. 406, providing for consideration of H.R. 8157, a bill to establish a national land policy and provide homesteads free of debt for actual farm families].

---

[12] 112 CONG. REC. 5, 6, 89th Cong. 2d Sess.

[13] Carl Albert (Okla.).

[14] 86 CONG. REC. 10257, 10258, 76th Cong. 3d Sess.

The previous question was ordered.

The Speaker: The question is on agreeing to the resolution.

The question was taken; and there were on a division (demanded by Mr. Colmer)—ayes 47, noes 123.

Mr. [Knute] Hill [of Washington]: Mr. Speaker, I object to the vote on the ground there is not a quorum present.

The Speaker: The Chair will count. [After counting.] Two hundred and thirty-five Members are present—a quorum.

Mr. [Hugh] Peterson of Georgia: Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were refused.

So the resolution was rejected.

§ 3.5 In counting for a quorum in Committee of the Whole, the Chair counts all Members visible in the Chamber, even though they may be in the process of leaving the Chamber.

On Apr. 25, 1963,(15) during consideration in the Committee of the Whole of H.R. 4997, a bill to extend the Feed Grains Act, the Chair, James C. Wright, Jr., of Texas, counted all Members who were visible.

Mr. [Robert T.] Stafford [of Vermont]: Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman: The Chair will count.

Mr. [Paul C.] Jones of Missouri: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Jones of Missouri: Will the Chair state whether the Chair is counting those Republicans who went back in the cloakroom?

The Chairman: The Chair will respond to the inquiry, which is not a parliamentary inquiry, that he is counting Members as they leave the Chamber.

The Chair counts 102 Members present, a quorum.

§ 3.6 In determining the presence of a quorum, the Chair counts all Members visible, including those behind the railing.

On July 10, 1958,(16) Members behind the railing were counted for purposes of determining the presence of a quorum.

The Speaker Pro Tempore:(17) The question is on suspending the rules and passing the bill.

The question was taken; and the Speaker pro tempore announced that in his opinion two-thirds had voted in the affirmative.

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, I object to the vote on the ground that a quorum is not present

---

15. 109 Cong. Rec. 7116, 88th Cong. 1st Sess.

16. 104 Cong. Rec. 13382, 85th Cong. 2d Sess.

17. John W. McCormack (Mass.).

and I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The Chair will count. [After counting.] One hundred and ninety-nine Members are present, not a quorum.

MR. [NOAH M.] MASON [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. MASON: Under the rules of the House, is it proper to count Members who are behind the railing?

THE SPEAKER PRO TEMPORE: The Chair has made the count and the Chair's count will not be disputed.

MR. MASON: Mr. Speaker, I am not questioning the count. I am just asking whether it is proper and in order to count those behind the railing.

THE SPEAKER PRO TEMPORE: In response to the gentleman's inquiry, the Chair may and the present occupant of the chair will always, when he is in the chair, count any Member who is visible and in the Chamber.

§ 3.7 When a quorum does not appear, the Speaker may order the Clerk to call his name and cast a vote to make a quorum.

On occasion, after waiting for a quorum to appear, the Speaker has cast his vote to make a quorum.

For example, on Oct. 20, 1966,(18) during an automatic roll call while Conference Report No. 2327 on H.R. 13103, the Foreign Investors Tax Act of 1966, was being considered, the Speaker, John W. McCormack, of Massachusetts, voted to make a quorum.(19)

THE SPEAKER: The question is on agreeing to the conference report.

The question was taken; and the Speaker announced that the "ayes" appeared to have it.

MR. [GLENN] CUNNINGHAM [of Nebraska]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 171, nays 46, not voting [216], as follows: . . .

THE SPEAKER: The Clerk will call my name.

The Clerk called the name of Mr. McCormack, and he answered "yea."

So the conference report was agreed to.

§ 3.8 The Speaker ordered the tally clerk to record as present a Member whom he observed on

---

(18) 112 CONG. REC. 28254, 28255, 89th Cong. 2d Sess.

(19) See also, for example, 89 CONG. REC. 9478, 78th Cong. 1st Sess., Nov. 13, 1943 (roll call); 89 CONG. REC. 769, 78th Cong. 1st Sess., Feb. 10, 1943 (count of the House); and 88 CONG. REC. 9116, 9117, 77th Cong. 2d Sess., Nov. 24, 1942 (motion to recommit).

the floor although that Member had not responded to his name during a call of the House.

On the legislative day of Oct. 8, 1968,(20) Speaker John W. McCormack, of Massachusetts, ordered the name of a Member, Ogden R. Reid, of New York, to be recorded as present.

CALL OF THE HOUSE

MR. [FLETCHER] THOMPSON of Georgia: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: The Clerk will call the name of the gentleman from New York [Mr. Reid].

THE CLERK: Mr. Reid of New York.

THE SPEAKER: The Chair observes the gentleman from New York [Mr. Reid] present, and directs that he be recorded as present.

On this rollcall 218 Members have answered to their names, a quorum.

§ 3.9 Under Rule XV clause 4(1) the Speaker has the authority to note the names of Members present but not voting to establish a quorum and decide the pending question.

As an exercise of this authority, the Speaker, after observing the presence of two Members who had not been recorded on an automatic roll call being conducted under Rule XV clause 4, directed the Clerk to call their names, and, when one Member did not respond, directed the Clerk to record him "present" in order to establish a quorum and pass a joint resolution.

On Dec. 31, 1970,(2) Speaker John W. McCormack, of Massachusetts, observing Members on the floor who did not respond to the roll call, ordered the Clerk to call their names.

THE SPEAKER: The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I object to the vote on the ground that a quorum is not pres-

---

20. 114 CONG. REC. 30102, 30103, 30209, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

1. See *House Rules and Manual* § 773 (1979).

2. 116 CONG. REC. 44302, 91st Cong. 2d Sess. Under consideration was H.J. Res. 1421, making further continuing appropriations for fiscal 1971.

ent and make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll. . . .

THE SPEAKER: The Chair observes that the gentleman from Wisconsin (Mr. Kastenmeier) is present in the Chamber, and directs the Clerk to call his name.

Does the gentleman desire to vote? Otherwise, the Clerk will record the gentleman as "present."

MR. [ROBERT W.] KASTENMEIER: Mr. Speaker, I vote "nay."

THE SPEAKER: The gentleman from Wisconsin votes "nay."

The Chair observes the gentleman from Michigan (Mr. Conyers) is present in the Chamber, and directs the Clerk to call his name.

Does the gentleman desire to vote? Otherwise, the Clerk will record the gentleman as "present."

MR. YATES: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair will state that the Chair is about to announce the vote.

One hundred and eighty Members voting in the affirmative, 37 Members in the negative, and one "present," and the Chair being present, making a quorum, the joint resolution is passed.

Who Is Not Counted

§ 3.10 In counting for a quorum the Chair may not count Members in the cloakrooms out of sight.

On Feb. 15, 1950,(3) Speaker Sam Rayburn, of Texas, responded to an inquiry with respect to counting Members in the cloakrooms.(4)

MR. [ANTHONY] CAVALCANTE [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. CAVALCANTE: Under the rules of the House, are the cloakrooms a part of the Hall of the House?

THE SPEAKER: The Chair cannot count any Members that he cannot see.

The Chair will count. [After counting.] Evidently there is no quorum present.

§ 3.11 After announcing that there was one short of a quorum, the Speaker refused to count a Member who entered the Chamber after the announcement.

---

3. 96 CONG. REC. 1810, 1811, 81st Cong. 2d Sess.

4. See also 96 CONG. REC. 3065, 81st Cong. 2d Sess., Mar. 8, 1950. And see 4 Hinds' Precedents § 2970, a 1907 precedent in which the Chairman of the Committee of the Whole counted "the head of every Member looking out of the cloakrooms that is visible," and 8 Cannon's Precedents § 3120, a 1921 precedent in which the Speaker pro tempore, after ruling that the Hall of the House included cloakrooms and lobbies adjacent to the Chamber, counted 11 Members who had left the Chamber after the order for a yea and nay vote on a motion to recommit.

On Dec. 16, 1943,(5) Speaker Sam Rayburn, of Texas, refused to count a Member who entered the Chamber subsequent to announcement of the result of a roll call.

THE SPEAKER: . . . The question is on the motion offered by the gentleman from New Mexico that the House recede and concur in the Senate amendment.

The question was taken; and the Chair being in doubt, the House divided, and there were—ayes 131, noes 63.

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were refused.

MR. CANNON of Missouri: Mr. Speaker, I make the point of order that a quorum is not present and object to the vote on that ground.

THE SPEAKER: The Chair will count.

MR. CANNON of Missouri: On the announcement of the vote, it appeared that only 194 had voted—22 less than a quorum.

THE SPEAKER: The gentleman from Missouri must understand that some Members in the House may not have voted. The Chair thinks he must count. [After counting.] Two hundred and fifteen Members are present, lacking one of being a quorum.

MR. [EARL R.] LEWIS [of Ohio]: Mr. Speaker, I came in while the Chair was announcing the result of the count.

THE SPEAKER: The Chair had announced that a quorum was not present. Gentlemen coming in after the announcement was made cannot be counted.

§ 3.12 A Member may not be recorded on a roll call after the result of the vote has been announced, even though he could have qualified prior to the announcement.

On Mar. 29, 1962,(6) Speaker John W. McCormack, of Massachusetts, refused to permit a Member's vote to be recorded after announcement of the result.

PERSONAL ANNOUNCEMENT

MR. [CARROLL D.] KEARNS [of Pennsylvania]: Mr. Speaker, I was standing behind the rail eulogizing our great Speaker after Drew Pearson's article about him. I was here and qualify and vote "no" on the last vote [Roll No. 52].(7)

THE SPEAKER: The Chair regrets that the gentleman cannot be recorded after the vote has been announced. The gentleman can state for the Record that he would have voted "no."

§ 3.13 A Member failing to respond on a quorum call may not have himself recorded as present on that call if the House has

---

5. 89 CONG. REC. 10776, 78th Cong. 1st Sess.

6. 108 CONG. REC. 5438, 87th Cong. 2d Sess.

7. See 108 CONG. REC. 5432, 5433, 87th Cong. 2d Sess., for this roll call.

already agreed to a motion to dispense with further proceedings under the call.

On Apr. 3, 1935,(8) the Speaker pro tempore, John E. Rankin, of Mississippi, made a ruling regarding a Member who arrived after the House had agreed to a motion to dispense with further proceedings under the call.

> THE SPEAKER PRO TEMPORE: Three hundred and forty-four Members have answered to their names, a quorum.
>
> MR. [EDWARD T.] TAYLOR of Colorado: Mr. Speaker, I move to dispense with further proceedings under the call.
>
> The motion was agreed to.
>
> The doors were opened.
>
> MR. [JOHN J.] MCSWAIN [of South Carolina]: Mr. Speaker, I was present and did not hear my name called. I desire to have my name called and to answer "present."
>
> THE SPEAKER PRO TEMPORE: The request of the gentleman comes too late, but the Record will show that he is here. The gentleman from Texas is recognized for 1 hour.

Quorum Established on Teller Vote

§ 3.14 After the Chairman of the Committee of the Whole announced that a quorum was not present, a quorum was established on a teller vote rejecting a motion that the Committee rise.

On Feb. 28, 1945,(9) during consideration in Committee of the Whole of H.R. 2374, the first defense appropriation bill of 1945, a quorum was established on a teller vote.

> MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I make the point of order that a quorum is not present.
>
> THE CHAIRMAN:(10) The Chair will count. [After counting.] Fifty-eight Members are present, not a quorum.
>
> MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I move that the Committee do now rise.
>
> THE CHAIRMAN: The question is on the motion offered by the gentleman from Missouri.
>
> The question was taken; and on a division (demanded by Mr. Cannon of Missouri) there were—ayes 27, noes 52.
>
> MR. CANNON of Missouri: Mr. Chairman, I demand tellers.
>
> Tellers were ordered, and the Chairman appointed as tellers Mr. Cannon of Missouri and Mr. Taber.
>
> The Committee again divided; and the tellers reported that there were—ayes 57, noes 61.
>
> So the motion was rejected.
>
> THE CHAIRMAN: A quorum is present. The gentleman from New York is recognized.

Parliamentarian's Note: A quorum of the Committee of the

---

8. 79 CONG. REC. 4925, 74th Cong. 1st Sess.

9. 91 CONG. REC. 1576, 1577, 79th Cong. 1st Sess.

10. John J. Sparkman (Ala.).

Whole is not required to adopt a motion to rise but here was required on rejecting the motion, in order that the Committee could proceed with business.

Verification of Chair's Count by Tellers Not Permitted

§ 3.15 In recent practice, the Chair has refused to recognize a demand for tellers to verify his count of a quorum.

On May 20, 1949,[11] during consideration of H.R. 4591, providing for pay, allowances, and physical disability retirement for members of the armed forces, the Chair[12] refused to appoint tellers.

> MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, I make the point of order that a quorum is not present.
>
> THE CHAIRMAN: The Chair will count. [After counting.] One hundred and five Members are present, a quorum.
>
> MR. [CARL] VINSON [of Georgia]: Mr. Chairman, I demand tellers.
>
> THE CHAIRMAN: The gentleman from Georgia has demanded tellers. The gentleman from Wisconsin made the point of order that a quorum was not present. The Chair counted 105 Members present. At this time there is no equstion before the House on which tellers can be ordered.
>
> MR. VINSON: Mr. Chairman, I make the point of order that a quorum is not present.
>
> THE CHAIRMAN: The Chair will count. [After counting.] One hundred and fourteen Members are present, a quorum.

Corrections of Quorum Calls

§ 3.16 Where a quorum is established by a call of the roll, the omission of the name of a Member who was present and responded when he was called, can be corrected by unanimous consent of the House but not by an insertion in the Record.

On June 28, 1966,[13] a Member, Lawrence H. Fountain, of North Carolina, extended his remarks to correct the Journal and Record.

> (Mr. Fountain (at the request of Mr. Patten) was granted permission to extend his remarks at this point in the record and to include extraneous matter.)
>
> MR. FOUNTAIN: Mr. Speaker, the Record of yesterday's rollcall No. 153 has me recorded as being absent. I was present and so answered to my name. I ask unanimous consent that the Journal be so corrected.
>
> I ask unanimous consent that the Congressional Record of June 27, 1966, be corrected, in that, on rollcall No. 153

---

[11] 95 CONG. REC. 6556, 81st Cong. 1st Sess.

[12] Oren Harris (Ark.).

[13] CONG. REC. (daily ed.), 89th Cong. 2d Sess. [The proceedings appear in the daily edition only, not in the permanent edition.]

I am recorded as absent. I was present and so answered to my name.

On June 29, 1966,[14] Mr. Fountain asked unanimous consent to correct the Journal and Record.

MR. FOUNTAIN: Mr. Speaker, on rollcall No. 153, a quorum call, on June 27, 1966, I am recorded as being absent. I was present in the Chamber and answered to my name. I ask unanimous consent that the Journal and permanent Record be corrected accordingly.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Parliamentarian's Note: Insertion of remarks in the Record, by unanimous consent, reciting an error in a quorum call, does not constitute consent of the House to effect a change of the Record or Journal.

§ 3.17 The correction of a roll call, by unanimous consent, is "business" of the House.

On Oct. 8, 1968,[15] Speaker pro tempore Carl Albert, of Oklahoma, determined that a correction of a roll call by unanimous consent constitutes "business" of the House.[1]

[MR. YATES: Mr. Speaker, on rollcall No. 379, which took place early this morning, a quorum call, I am recorded as absent. I was present and answered to my name. I ask unanimous consent that the permanent Record be corrected accordingly.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Illinois?

There was no objection.]

CALL OF THE HOUSE

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The gentleman from Ohio makes the point of order that a quorum is not present.

MR. [BROCK] ADAMS [of Washington]: A point of order, Mr. Speaker. There has been no intervening business since the rollcall on the resolution which indicated a quorum.

THE SPEAKER PRO TEMPORE: The Chair will state that the gentleman is in error, since we have had a correction of a rollcall.

The gentleman from Ohio makes the point of order that a quorum is not present. Evidently a quorum is not present.

---

[14] CONG. REC. (daily ed.), 89th Cong. 2d Sess. [The proceedings appear in the daily edition only, not in the permanent edition.]

[15] 114 CONG. REC. 30224, 90th Cong. 2d Sess.

[1] *Parliamentarian's Note:* The request to correct the roll call (the bracketed excerpt) by a Member [Sidney R. Yates (Ill.)] appeared in the daily edition of the Record [CONG. REC. (daily ed.), 90th Cong. 2d Sess.] but does not appear in the permanent edition which carried the roll call as corrected.

Mr. [Wilbur D.] Mills [of Arkansas]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

Chairs' Responsibility to Count all Members

§ 3.18 Instance where the Speaker recounted the House where Members were missed on the first count. After the Speaker announced the absence of a quorum, he counted the House again, on the statement of a Member that more Members had entered the Chamber during the first count, thus establishing a quorum.

On May 23, 1939,(2) Speaker William B. Bankhead, of Alabama, recounted the House after being advised that a quorum was present.

Mr. [Charles R.] Clason [of Massachusetts]: Mr. Speaker, I make the point of order there is not a quorum present.

The Speaker: The gentleman from Massachusetts makes the point of order that there is no quorum present. The Chair will count. [After counting.] Two hundred and thirteen Members are present, not a quorum.

Mr. Clason and Mr. Woodrum of Virginia rose.

Mr. Clason: Mr. Speaker, I withdraw the point of order in view of the large number that are present.

The Speaker: Under the circumstances, the Chair is not authorized to recognize the gentleman inasmuch as the Chair had already announced no quorum present. A constitutional question is raised.

Mr. [Clifton A.] Woodrum of Virginia: Mr. Speaker, five or six more came in over here.

The Speaker: Were these gentlemen here present when the Chair was counting?

Were the gentlemen in the rear of the hall who are holding up their hands not present when the Chair counted a moment ago?

The Chair will count the present membership again. [After counting.] Two hundred and twenty-seven Members are present, a quorum.

Senate Precedent

§ 3.19 To decide whether one-fifth of the Senators have seconded a demand for the yeas and nays, the Chair may assume that a quorum is present using as a basis for his determination the number who answered to their names on the last roll call.

On May 8, 1936,(3) during consideration of H.R. 12527, the Navy appropriation bill, the Presiding

---

2. 84 Cong. Rec. 6004, 76th Cong. 1st Sess.

3. 80 Cong. Rec. 6901, 6902, 74th Cong. 2d Sess.

Officer, Kenneth D. McKellar, of Tennessee, ruled on a request for the yeas and nays.

The Presiding Officer: The Senator from North Dakota asks for the yeas and nays on the adoption of the amendment.

The yeas and nays were not ordered.

The Presiding Officer: The question is upon agreeing to the amendment.

Mr. [Elmer A.] Benson [of Minnesota] obtained the floor.

Mr. [David I.] Walsh [of Massachusetts]: Mr. President, what was the ruling on the request for the yeas and nays?

Mr. [Lynn J.] Frazier [of North Dakota]: That is what I wish to know.

The Presiding Officer: The ruling was that the yeas and nays were not ordered, as only five Members held up their hands.

Mr. Frazier: That is more than one-fifth of those present.

Mr. Walsh: I suggest that the request be resubmitted, and I am sure it will be granted.

Mr. Frazier: I appeal from the ruling of the Chair, because five Members held up their hands, and I believe that is more than one-fifth of the number present.

The Presiding Officer: Of course, the Chair assumes that a quorum si present.

Mr. [Tom T.] Connally [of Texas]: Mr. President, a point of order.

The Presiding Officer: The Senator will state it.

Mr. Connally: I submit that five is not one-fifth of those present, because presumptively there is a quorum present.

The Presiding Officer: The Senator is correct about that.

Mr. Connally: Therefore, since 5 is not 20 percent of 49, the call of the yeas and nays is not in order.

Mr. [Charles L.] McNary [of Oregon]: Mr. President, no presumption whatsoever is indulged in a case of this kind.

The Presiding Officer: The present occupant of the chair is advised by the parliamentarian that it is.

Mr. McNary: I disagree with the parliamentarian. That is not correct practice and it has never been followed. The number necessary to order the yeas and nays is one-fifth of those present, and it is the duty of the Chair to count the number present.

The Presiding Officer: The Chair will state that the custom has been to go back to the last roll call. On the last roll call 69 Senators were present, and 5 is not one-fifth of 69; so the ruling of the Chair will stand. . . .

Mr. Connally: On the point of order that there must be a demand by one-fifth of those present in order to secure a yea and nay vote, I desire to set down in the Record my own view, without speaking for anyone other than myself.

I state as a matter of fundamental parliamentary law, whether there is any rule on the question or not, that the presumption always exists that there is a quorum present in the Senate unless a point of no quorum is made and the Senate by having the roll call determines that there is not a quorum present. Therefore, when a demand is made for the yeas and nays, unless one-fifth of the presumptive quorum present hold up their hands, the Chair is under no compulsion to order the roll called for a yea and nay vote.

THE PRESIDING OFFICER: The Chair has so held.

Parliamentarian's Note: In the House, the Speaker counts the House anew after counting those standing to demand the yeas and nays.

§ 4. Calls by Electronic Device; Time Allowed for Attendance

Under authority granted by section 121 of the Legislative Reorganization Act of 1970,(4) permitting use of electronic equipment to record names of Members voting or present, the House on Oct. 13, 1972,(5) approved a privileged resolution from the Committee on Rules (H. Res. 1123) which amended Rules I, VIII, XV, and XXIII. The resolution provided for a 15-minute minimum procedure for a recording of quorum calls in the House and Committee of the Whole by electronic device at the discretion of the Chair; a "backup" electronic procedure for recorded teller votes; and nonelectronic quorum calls to be conducted by clerk tellers in lieu of calling the roll.

Cross Reference

Voting, Ch. 30, infra.

Collateral Reference

Committee on House Administration, The Electronic Voting System for the United States House of Representatives, 92d Cong. 1st Sess. (1972).

In General

§ 4.1 The Speaker may direct that a call of the House be conducted by an alphabetical call of the roll by the Clerk, notwithstanding the requirement of Rule XV clause 2(b)(6) that quorum calls be conducted by clerk-tellers where the Chair is unable to utilize the electronic device.

On Mar. 7, 1973,(7) Speaker Carl Albert, of Oklahoma, directed that a call of the House be conducted.

THE SPEAKER: The Chair would like to make an announcement.

The Chair has been advised that the electronic voting system is at the present time not operable.

---

(4) Pub. L. No. 91–510, 84 Stat. 1140.

(5) See 118 CONG. REC. 36005–12, 92d Cong. 2d Sess., for the consideration and vote.

(6) See *House Rules and Manual* § 771b (1979).

(7) 119 CONG. REC. 6699, 93d Cong. 1st Sess.

Until further notice, therefore, all votes and quorum calls will be taken by the standby procedures which are provided in the rules. . . .

Mr. [Leslie C.] Arends [of Illinois]: Mr. Speaker, I make the point of order that a quorum is not present.

The Speaker: Evidently a quorum is not present.

Mr. [Thomas P.] O'Neill [Jr., of Massachusetts]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

The Speaker: On this rollcall 379 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

Parliamentarian's Note: Rule XV clause 1,(8) authorizes the Chair to direct the alphabetical call of the roll on "every roll call" unless the Chair, in his discretion under clause 5 utilizes the electronic device, but clause 5,(9) distinguishes between "roll calls" and "quorum calls," and clause 2(b) permits "calls of the House" to be had by clerks where the electronic device is not utilized.

§ 4.2 Pursuant to Rule XV clauses 4 and 5,(10) the Speaker may, in his discretion, direct the Clerk to call the roll (in lieu of taking the vote by electronic device) where a quorum fails to vote on any question and objection is made for that reason.

On May 16, 1973,(1) during consideration of H.R. 5777, the Hobby Protection Act, Speaker Carl Albert, of Oklahoma, directed the Clerk to call the roll.

The Speaker: The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. [John W.] Wydler [of New York]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker: Evidently a quorum is not present.

The electronic voting device apparently is not operating properly.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

§ 4.3 On a call of the House conducted by electronic device pur-

---

(8) See *House Rules and Manual* § 765 (1979).

(9) *Id.* at § 774b.

(10) See *House Rules and Manual* §§ 773, 774b (1979).

(1) 119 Cong. Rec. 15860, 15861, 93d Cong. 1st Sess.

suant to Rule XV clause 5,[2] Members are permitted a minimum of 15 minutes to respond [and at the expiration of such time it is within the discretion of the Chair to allow additional time for Members to record their presence before announcing the result].

On June 6, 1973,[3] during discussion of impeachment powers of the House, Speaker Carl Albert, of Oklahoma, clarified the time limit for calling the roll by electronic device.

MR. [EARL F.] LANDGREBE [of Indiana]: Mr. Speaker, this is a very important matter being discussed. I do not believe there is a quorum in the House. I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE:[4] The Chair will count.

Sixty Members being present in the Chamber, a quorum is not present.

MR. [JOHN J.] MCFALL [of California]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond: . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, may we have the regular order?

THE SPEAKER: The regular order is the establishment of a quorum and the rule provides a minimum of 15 minutes for Members to respond. Clause 5 of rule XV states that Members have "not less than 15 minutes to have their presence recorded."

§ 4.4 Where a motion to adjourn intervenes during a call of the House being conducted by electronic device following the expiration of 15 minutes but prior to the announcement of the result of the call, the quorum call remains in progress upon rejection of the motion to adjourn.

On June 6, 1973,[5] during discussion of the power of impeachment in the House, Speaker Carl Albert, of Oklahoma, ordered continuation of a quorum call following defeat of a motion to adjourn.

MR. [JOHN J.] MCFALL [of California]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond: . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, may we have the regular order?

THE SPEAKER: The regular order is the establishment of a quorum and the rule provides a minimum of 15 minutes for Members to respond. Clause 5 of rule XV states that Members have

---

[2] See *House Rules and Manual* § 774b (1979).

[3] 119 CONG. REC. 18402, 18403, 93d Cong. 1st Sess.

[4] Romano L. Mazzoli (Ky.).

[5] 119 CONG. REC. 18402, 18403, 93d Cong. 1st Sess.

"not less than 15 minutes to have their presence recorded."

Mr. [Joe D.] Waggonner [Jr., of Louisiana]: Mr. Speaker, I move that the House do now adjourn.

Ms. [Bella] Abzug [of New York]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 9, nays 143, present 1, not voting 279, as follows: . . .

So the motion to adjourn was rejected.

The result of the vote was amended as above recorded.

The Speaker: The order of business is the establishment of a quorum. The House is still in the process of trying to establish a quorum, the motion to adjourn having been rejected. Are there further Members in the Chamber who desire to record their presence?

Parliamentarian's Note: Because the Speaker had not announced the result of the call of the House (Roll No. 191) at the time Mr. Waggonner offered the motion to adjourn, the Speaker announced that the call of the House was still open and in progress upon rejection of the adjournment motion, and that Members could record their presence although they had not been able to return to the floor during the 15-minute period. Mr. John J. Duncan, of Tennessee, contended the next day that the Speaker had no authority to entertain the motion to adjourn during the call of the House and prior to his announcement of the result of that call (citing 5 Hinds' Precedents § 6053, to the effect that a motion to adjourn may not interrupt a call of the yeas and nays during the actual call of the roll). If this contention were valid, it would give to the Speaker unlimited discretion to keep a quorum call open indefinitely by refusing to announce the result (where a quorum had not been obtained) and thereby indefinitely refusing to entertain a motion to adjourn. See § 8.19, infra, where a motion to adjourn was held in order after the conclusion of the second call of the roll and prior to announcement by the Chair of the result of the call.

§ 5. Securing Attendance; Arrests

The attendance of absent Members may be secured under Rule XV clause 4,[6] which provides for an "automatic" vote by yeas and nays and for the arrest of absent Members by the Sergeant at Arms. Under this rule the Sergeant at Arms forthwith proceeds to bring in absent Members, whenever a quorum fails to vote, a quorum is is not present, and objection is made for that cause. Each Member arrested is brought by the Sergeant at Arms before the House, discharged from arrest, and given an opportunity to vote; his vote is recorded.

---

[6] *House Rules and Manual* § 773 (1979).

Presence of Members may also be secured under Rule XV clause 2(a),(7) which, in the absence of a quorum, authorizes 15 Members by majority vote(8) to approve a motion to compel the attendance of absent Members and a majority of those present may then order officers appointed by the Sergeant at Arms to send for and arrest absentees for whom no excuse is made. Members whose attendance has been secured in this manner are detained until discharged on conditions determined by the House.

The Speaker(9) or Speaker pro tempore,(10) under authority of the order of the House, signs warrants for arrest of absent Members.

In General

§ 5.1 During a filibuster by roll calls in the House, the Speaker declined to recognize a Member for a motion that the Sergeant at Arms take whatever action necessary to keep a quorum present in the Chamber for the remainder of the day.

On Aug. 1, 1946,(11) Speaker Sam Rayburn, of Texas, declined to recognize a Member for a motion during the reading of a resolution relating to contempt proceedings against George Marshall.

> Mr. [William C.] Cole of Missouri: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state it.
>
> Mr. Cole of Missouri: Mr. Speaker, is it in order to make a motion that the Sergeant at Arms take whatever action is necessary to keep a quorum present in the House Chamber for the remainder of today, any House rules to the contrary notwithstanding? If it is, I would like to make that motion.

---

7. *House Rules and Manual* § 768 (1979). Beginning with the 95th Congress, this clause must be read in conjunction with the new clause 6(e)(2) of this rule, which permits the Speaker to recognize for a motion for a call of the House at any time.

8. See annotation to Rule XV clause 2(a), *House Rules and Manual* §§ 768, 769 (1979); and 4 Hinds' Precedents § 2984, which provide that because the call of the House must be ordered by majority vote, a minority of 15 will not suffice.

9. See Rule I clause 4, *House Rules and Manual* §§ 624, 626 (1979).

10. See § 5.12, infra.

11. 92 Cong. Rec. 10639, 79th Cong. 2d Sess.

THE SPEAKER: The Chair would rather not recognize the gentleman for such motion at this time.

MR. COLE of Missouri: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. COLE of Missouri: Mr. Speaker, when would that motion be in order?

THE SPEAKER: Well, the Chair would like to be the judge of that. Not now. The Clerk will continue reading.

Parliamentarian's Note: Under Rule XV clause 2(a), the House may determine conditions upon which arrested absentees and others may be discharged, but only while the call of the House is in progress.

§ 5.2 Where a quorum call is ordered, the doors may be closed and the Sergeant at Arms called upon to notify absent Members.

On June 5, 1946,[12] Speaker Sam Rayburn, of Texas, responded to a parliamentary inquiry as to procedure during a call of the House.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I move a call of the House.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

THE SPEAKER: The question is on the motion for a call of the House.

The question was taken; and on a division (demanded by Mr. Rankin) there were—ayes 81, noes 13.

MR. SMITH of Virginia: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: A quorum is not required in this instance.

So the motion was agreed to. . . .

The House has ordered a call of the House. A roll call is in order, and the Clerk will call the roll.

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MICHENER: Is this the situation, that a quorum was not present when last reported; that the doors are locked and the Sergeant at Arms is out notifying absent Members?

THE SPEAKER: That is correct. The Clerk will call the roll.

§ 5.3 Where the House in the absence of a quorum and pursuant to motion had ordered "that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed," the Chair interpreted

---

[12] 92 CONG. REC. 6353, 6354, 79th Cong. 2d Sess. Under the modern practice (beginning with the 93d Congress), doors are closed only on order of the Speaker.

the motion as requiring the Sergeant at Arms to notify absentees but not as bestowing on him the duty or authority of arresting absentees and bringing them into the Chamber under custody. The Chair stated that the motion had been adopted by, and expressed the will of, the House, and, no timely point of order having been raised against the motion due to lack of a quorum, was binding on the Speaker and other Members.

On Oct. 9, 1968,(13) Speaker John W. McCormack, of Massachusetts, responded to a series of parliamentary inquiries relating to a motion to locate absent Members.

> MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.
>
> MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, as a part of the motion of a call of the House, I further move under rule II,(14) under which a call of the House is in order, that a motion be made for the majority here that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.
>
> THE SPEAKER: The question is on the motion offered by the gentleman from Washington [Mr. Adams].
>
> The motion was agreed to. . . .
>
> MR. [ELFORD A.] CEDERBERG [of Michigan]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman from Michigan will state his parliamentary inquiry.
>
> MR. CEDERBERG: Mr. Speaker, yesterday my wife underwent major surgery and she is in the hospital at the present time. I have been going back and forth to the hospital to see her. I have missed several quorum calls during this period of time.
>
> Do I have to get unanimous consent from this body to return back to the hospital when I would probably be going back within the next hour or two?
>
> THE SPEAKER: The Chair will state to the gentleman from Michigan that if the gentleman will consult with the Speaker, certainly, we are all sorry to hear about the condition of the gentleman's dear wife and the Speaker will recognize that first things come first and that one belongs with his loved ones.
>
> MR. CEDERBERG: I thank the Speaker.
>
> MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman from South Carolina will state his parliamentary inquiry.
>
> MR. RIVERS: Mr. Speaker, we have taken the unusual step of sending for absent Members. Even though a quorum is present, my parliamentary in-

---

13. 114 CONG. REC. 30212-14, 90th Cong. 2d Sess. Legislative day of Oct. 8, 1968.

14. *Parliamentarian's Note:* The provisions referred to appear in Rule XV clause 2(a), *House Rules and Manual* § 768 (1979).

quiry is this: In construing the motion pursuant to the rules of the House, will the absent Members be merely notified or will they be sent for by a marshal or will they be placed under arrest or how will they be returned?

The Speaker: The Chair will state to the gentleman from South Carolina that they will be notified by the Sergeant at Arms.

Mr. Rivers: Will they come in on their own or will someone in authority bring them in?

The Speaker: The Chair has announced that they will be notified by the Sergeant at Arms. Certainly, there is no wording contained in the motion to bring about the attempted custody of any Member.

Mr. [James G.] Fulton of Pennsylvania: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman from Pennsylvania will state his parliamentary inquiry.

Mr. Fulton of Pennsylvania: Mr. Speaker, in our Pennsylvania delegation we have one Member, Mr. John Saylor, who has leave of absence from this Chamber for 2 days and who is at the present time on board a naval ship.

Does this motion apply to a person with such a leave of absence?

The Speaker: The gentleman is making a serious inquiry about Members away on important duty.

The Chair will state that the motion calls for the notification and the sending for Members. The Chair construes that as meaning to notify the Members to return. The Chair has already in response to another parliamentary inquiry propounded by the gentleman from South Carolina clearly stated that it does not call for bringing them back in custody.

Mr. Fulton of Pennsylvania: One further parliamentary inquiry on the enforcement of the motion: Is it not within the full discretion of the Chair as to what methods and means shall be used to notify or to arrest or to bring in Members and that that full discretion still lies within the Chair? So, unless there is an order by the Chair as to the method, the motion simply represents a notification to the Members to return because insofar as I know the Chair has made no ruling as to the arrest or as to bringing the Members back in custody.

The Speaker: The gentleman is the only one who has used the word "arrest." The Chair used the word "custody." The Chair does not construe that that is a part of the motion, and the Chair has construed that motion to mean that it is the sense of the majority of the House that the Sergeant at Arms do come up with the Members that are not present and to do everything he can within the limitation of the motion to assure their presence.

Procedures Available When a Quorum Fails to Appear on a Call of the House or on Automatic Vote by Yeas and Nays

§ 5.4 If a quorum fails to develop on an automatic vote by yeas and nays under Rule XV clause 4[15]

---

[15] See *House Rules and Manual* § 773 (1979).

the House may decide to adjourn, or, in the absence of such motion, the Speaker may sign warrants for the Sergeant at Arms to bring in absentees.

On Oct. 18, 1966,(16) Speaker John W. McCormack, of Massachusetts, stated the procedures available when a quorum does not appear.

> Mr. [Charles L.] Weltner [of Georgia]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state his parliamentary inquiry.
>
> Mr. Weltner: Mr. Speaker, in the event that the result of the vote is announced and it appears that less than a quorum, or less than 218 Members, have voted, and unanimous consent is not given to dispense with further proceedings under the call, am I correct in understanding that the Sergeant at Arms will then be under an obligation to produce the nonvoting Members?
>
> The Speaker: The Chair will state, in response to the inquiry, that if a quorum is not present one of two alternatives remain; one, to adjourn the House, and the other, to instruct the Sergeant at Arms.
>
> The Chair wants to state, frankly, the Chair would not instruct the Sergeant at Arms.

§ 5.5 Where a quorum fails to develop following a motion for a call of the House, the House has only two alternatives: a motion to adjourn or a motion to instruct the Sergeant at Arms to secure the attendance of absentees.

On Oct. 14, 1969,(17) Speaker John W. McCormack, of Massachusetts, answered inquiries regarding procedural alternatives available when a quorum fails to appear. Those proceedings are reported elsewhere in this chapter.(18)

§ 5.6 If a quorum fails to materialize on a call of the House under Rule XV clause 2(a),(19) a motion to arrest absentees and bring them into the Chamber is in order.

On the legislative day of Oct. 8, 1968,(20) Speaker John W. McCormack, of Massachusetts, answered an inquiry regarding a possible motion to arrest absentees.

> Mr. [Roman C.] Pucinski [of Illinois]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state his parliamentary inquiry.
>
> Mr. Pucinski: Mr. Speaker, we have had, in the last 12 hours, 23 quorum

---

16. 111 Cong. Rec. 27513, 89th Cong. 2d Sess.

17. 115 Cong. Rec. 30054, 30055, 91st Cong. 1st Sess.

18. See § 10.12, infra.

19. See *House Rules and Manual* § 768 (1979).

20. 114 Cong. Rec. 30101, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

calls. My parliamentary inquiry is this: In the event that a quorum does not respond on one of these quorum calls, is it then in order to make a motion to arrest the absent Members and bring them down here?

The Speaker: Such a motion would be in order if a quorum is not present.

§ 5.7 The Speaker indicated that if a motion to adjourn made during a quorum call failed and a quorum failed to appear, a motion to instruct the Sergeant at Arms to bring in absentees would be in order.

On Oct. 14, 1969,(1) when less than a quorum had appeared, Speaker John W. McCormack, of Massachusetts, answered inquiries regarding the proper time to instruct the Sergeant at Arms to bring in absentees.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I would prefer not to make this motion at this time, but in view of the parliamentary situation, I move that the House do now adjourn.

Mr. [Sidney R.] Yates [of Illinois]: Mr. Speaker, on that I demand the yeas and nays.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Gerald R. Ford: Mr. Speaker, if the motion to adjourn does not prevail, and a quorum is not present what is the situation then?

The Speaker: The Chair will state that the House would continue to proceed under the call of the House to establish a quorum.

Mr. Gerald R. Ford: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Gerald R. Ford: Mr. Speaker, does that entail another quorum call at that point?

The Speaker: The Chair will state that we would be continuing under the previous call, the call that was in existence prior to the motion to adjourn.

Mr. Yates: Mr. Speaker, a parliamentary inquiry.

Mr. Speaker, would it be in order at that point to move that the Speaker instruct the Sergeant at Arms to bring in Members who are absent?

The Speaker: The Chair will state that if the House fails to adjourn, a motion to that effect would be in order.

§ 5.8 If a quorum fails to answer on a call of the House under Rule XV clause 2(a),(2) (1) the Sergeant at Arms may be directed by the Speaker to locate absentees and inform them that a quorum call is in progress or (2) a majority of those present [a minimum of 15 is required under the rule] and voting in the affirmative may order the Sergeant at Arms to compel the attendance of absentees.

---

1. 115 Cong. Rec. 30055, 91st Cong. 1st Sess.

2. See *House Rules and Manual* § 768 (1979).

On the legislative day of Oct. 8, 1968,(3) Speaker John W. McCormack, of Massachusetts, stated procedures necessary to direct the Sergeant at Arms to locate absentees and compel attendance.

MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from Washington will state his parliamentary inquiry.

MR. ADAMS: Mr. Speaker, in the event a quorum is not present is it the situation under rule XV of the House that the first alternative that applies is that the Speaker of the House may sit during such period of time as the Sergeant at Arms shall search the premises in the nearby area on the request of the Speaker in order to provide a quorum? Is that the first situation that applies in the event a quorum is not present?

THE SPEAKER: The statement as generally made by the gentleman is correct.

MR. ADAMS: Now, Mr. Speaker, the second alternative is this: In the event that a quorum is not present after the efforts of the Speaker to obtain Members from the nearby areas and through whatever means he wishes to pursue while he is sitting in the chair and the call is proceeding that the next alternative then is a motion supported by 15 Members of the House to have a warrant issued for attendance in the House and after that warrant is issued and this motion is passed and the doors are locked and Members are brought to the floor, then under the instructions of the Speaker they may be detained on the floor throughout the quorum and remain present for the transaction of business? Is that the second alternative, Mr. Speaker?

THE SPEAKER: The Chair does not wish to take this matter into consideration in the nature of an alternative, but the Chair would state that such procedures are carried out requiring the presence of Members. Is that what the gentleman has in mind?

MR. ADAMS: Would it be in order at that time for a motion of that type to be made?

THE SPEAKER: That would depend upon the action of the House.

MR. ADAMS: I am asking, Mr. Speaker, if such a motion by 15 Members would be in order at that time.

THE SPEAKER: The Chair has difficulty in following the gentleman when he says "a motion by 15 Members."

MR. ADAMS: I refer the Speaker to part 2 of rule XV which reads as follows:

> In the absence of a quorum, fifteen Members, including the Speaker, if there is one——

THE SPEAKER: There is one now.

MR. ADAMS: I appreciate that fact, Mr. Speaker, but in the event that you wished—

> shall be authorized to compel the attendance of absent Members, and in all calls of the House the doors shall be closed, the names of the Members shall be called by the Clerk, and the absentees noted; and those for whom no sufficient excuse is made may, by order of a majority of those present, be sent for and arrested, wherever they may be found, by officers to be appointed by the Ser-

---

3. 114 CONG. REC. 30210, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

geant-at-Arms for that purpose, and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged.

Mr. Speaker, that is my inquiry in the event that this should continue and a quorum should not be present, if that is important.

The Speaker: The Chair will state that such action could only be taken by a majority of the Members present and voting.

The Chair will state further in reply to the inquiry of the gentleman from Washington that the gentleman has made reference to 15 Members, and that situation does not apply at this time.

Mr. Adams: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Adams: In other words, Mr. Speaker, a motion then by a Member present to carry out this procedure would be sufficient if a quorum were not present, under the circumstances as they exist in the House?

The Speaker: The Chair will state that it would take a majority of the Members if there were only 15 present.

Mr. Adams: If a motion is made in the body as it sits now, that motion could be made by any individual Member, and if a majority of those present in the Chamber were to vote in favor of that motion, then the procedure would start at that point?

That is my parliamentary inquiry.

The Speaker: The Chair will state that has already been stated by the Chair, it requires a majority of the Members present if such a motion were to be made. It would require a majority of the Members present, and voting thereon.

Parliamentarian's Note: The Speaker misstated the requirement for 15 Members' ordering the attendance of absentees in the situation where only 15 Members were on the floor. The precedents indicate that there must be at least 15 affirmative votes to order the attendance of absentees. See 4 Hinds' Precedents §§ 2983, 2984.

§ 5.9 Under Rule XV clause 2(a),(4) a motion that the Sergeant at Arms procure the attendance of absentees is in order and unless directed by such a motion, the Sergeant at Arms has no authority to compel attendance.

On the legislative day of Oct. 8, 1968,(5) Speaker John W. McCormack, of Massachusetts, stated procedures for procuring attendance of absent Members.

The Speaker: On this rollcall, 220 Members have answered to their names, a quorum. If there is no objection, further proceedings under the call will be dispensed with.

---

4. See *House Rules and Manual* § 768 (1979).
5. 114 Cong. Rec. 30212, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

Mr. [Brock] Adams [of Washington]: Mr. Speaker, reserving the right to object, under the reservation of the right to object, I want to inquire whether, if objection is made to dispensing with the call, under rule XV, paragraph 2, the automatic effect of that is that the Members shall be called by the Clerk and the absentees noted, and those for whom no sufficient excuse is made may, by the order of the majority present, be sent for and arrested wherever they may be found?

I am inquiring as part of my reservation, whether or not a quorum may be present, if proceedings under the call are not dispensed with, that thereafter the Speaker has the power for those who are absent from the body tonight, to have them first contacted to be brought here and, if they do not appear, to have the Sergeant at Arms go and obtain them, without any further proceeding?

The Speaker: . . . It would require a motion or resolution to be concurred in by a majority of the House.

Parliamentarian's Note: See 4 Hinds' Precedents §§ 2983, 2984. To compel the attendance of absentees under this rule, there must be 15 affirmative votes, and those voting to compel attendance must be in the majority. (Thus, a 15–14 vote, or a 15–0 vote, would be sufficient.)

§ 5.10 Although the Speaker possesses authority to issue a warrant of arrest for absent Members under an automatic roll call under Rule XV clause 4, he usually does not do so without action of the House during other proceedings incident to calls of the House under Rule XV clause 2(a).

On July 29, 1946,(6) in response to a parliamentary inquiry, following the failure of a quorum to vote on a yea and nay vote ordered under Rule XV clause 4, Speaker Sam Rayburn, of Texas, made a ruling regarding issuance of arrest warrants.

Mr. [John E.] Rankin [of Mississippi]: Let us get this business straightened out. If this motion were voted down it would be the duty of the Speaker to issue writs of arrests for absent Members and have them brought to the floor of the House until every Member of the House was brought back or until further proceedings were dispensed with.

The Speaker: The Chair could issue a warrant because this is an automatic roll call. Usually the Chair does not do that without action of the House specifying that it be done.(7)

---

6. 92 Cong. Rec. 10410, 79th Cong. 2d Sess.

7. *Parliamentarian's Note:* Rule I clause 4 [see *House Rules and Manual* § 624 (1979)] provides that the Speaker "shall sign all . . . warrants. . . ." See 1 Hinds' Precedents § 287 which holds that the Speaker has authority to issue a warrant of arrest only by

§ 5.11 A motion for the arrest of absentees is in the form of an order to the Sergeant at Arms.

On May 14, 1930,(8) a Member, Percy E. Quin, of Mississippi, offered the following motion:

MR. QUIN: Mr. Speaker, I move that the Speaker instruct the Sergeant at Arms to bring in the absent Members.

THE SPEAKER PRO TEMPORE:(9) The gentleman from Mississippi offers a motion, which the Clerk will report:

The Clerk read as follows:

Mr. Quin presents the following motion:

> *Ordered,* That the Sergeant at Arms take into custody and bring to the bar of the House such Members as are absent without leave.

§ 5.12 The Speaker pro tempore, pursuant to a motion adopted by the House that the Sergeant at Arms take absent Members into custody, signs warrants for the arrest of absent Members.

On May 14, 1930,(10) the Speaker pro tempore, John Q. Tilson, of Connecticut, announced that he had signed warrants for the arrest of absent Members.

The Clerk read as follows:

Mr. [Percy E.] Quin [of Mississippi] presents the following motion:

> *Ordered,* That the Sergeant at Arms take into custody . . . such Members as are absent without leave.

THE SPEAKER PRO TEMPORE: The question is on the motion of the gentleman from Mississippi.

The question was taken; and on a division (demanded by Mr. Stafford) there were 78 ayes and 55 noes.

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, I demand the yeas and nays.

THE SPEAKER PRO TEMPORE: The gentleman from Wisconsin demands the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 122, nays 74, answered "present" 4, not voting 227, as follows . . .

THE SPEAKER PRO TEMPORE: The Chair announces the fact that he has signed the warrants to arrest the absent Members.

---

order of the House. However, the order in that case involved the arrest of the Clerk of the House as distinguished from arrest of Members during an automatic call of the House. Under Rule XV clause 4 [see *House Rules and Manual* § 773 (1979)] the House has adopted a standing rule ordering the Sergeant at Arms to bring in absent Members during the yea and nay vote. (But to actually make an arrest under this rule the Sergeant at Arms must have in his possession a warrant signed by the Speaker.)

8. 72 CONG. REC. 8962, 71st Cong. 2d Sess.

9. John Q. Tilson (Conn.).

10. 72 CONG. REC. 8962, 71st Cong. 2d Sess.

Procedure Available Following Refusal to Dispense With Further Proceedings

§ 5.13 Where a motion to dispense with further proceedings under a call for a quorum is rejected, the Members present remain in the Chamber until the Sergeant at Arms brings in enough Members to make a quorum or make the full membership.

On July 29, 1946,(11) a motion to dispense with further proceedings under the call was rejected.

Mr. Rankin and Mr. Marcantonio moved a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

The Speaker:(12) On this roll call 240 Members have answered to their names, a quorum.

If there is no objection, further proceedings under the call will be dispensed with.

Mr. [Frank E.] Hook [of Michigan]: Mr. Speaker, I object.

Mr. [William C.] Cole of Missouri: Mr. Speaker, I object.

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, I move that further proceedings under the call be dispensed with. . . .

Mr. Cole of Missouri: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Cole of Missouri: Should this motion be voted down and should further proceedings under the call be not dispensed with will the Chair please state the procedure to be followed then?

The Speaker: We stay here until the Sergeant at Arms brings in enough Members to make a quorum or to make the full membership.

Mr. [Earl C.] Michener [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Michener: Would it not be the fact that if this motion were voted down the House would find itself in a room that is supposed to be locked and the Sergeant-at-Arms would be presumed to be out notifying absentees?

The Speaker: The gentleman is correct.

Parliamentarian's Note: The Sergeant at Arms would not have the authority to arrest Members unless ordered by a majority of those voting; but he has inherent authority to notify absentees that they are needed to make a quorum.

Procedure Available Following Refusal to Adjourn

§ 5.14 The failure of a quorum to respond on a roll call vote (decided in the negative) on a motion to adjourn being con-

---

11. 92 Cong. Rec. 10409, 79th Cong. 2d Sess.
12. Sam Rayburn (Tex.).

ducted under Rule XV clause 4,[13] would require the Sergeant at Arms to arrest absent Members without further order of the House.

On Apr. 15, 1970,[14] the Speaker pro tempore, Charles M. Price, of Illinois, explained the procedure for arresting absent Members.

MR. [FLETCHER] THOMPSON of Georgia: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. THOMPSON of Georgia: Mr. Speaker, if there is no quorum present, and there is a negative vote, what is the action of the Chair?

THE SPEAKER PRO TEMPORE: The Chair will state that the action of the Chair is to wait until a quorum appears.

MR. THOMPSON of Georgia: If no quorum appears, then what?

THE SPEAKER PRO TEMPORE: The Chair will state that if a quorum does not appear, then the House operates under the automatic rule that they would bring the Members in.

MR. THOMPSON of Georgia: Is a motion in order to go out and arrest the Members and bring them in?

THE SPEAKER PRO TEMPORE: Under the rule, the Sergeant at Arms would bring the Members in.

Parliamentarian's Note: See § 5.10, supra, where the Speaker indicated that under an automatic vote by yeas and nays, the Chair must still sign warrants.

Senate Precedents

The following precedents are carried as examples of Senate procedures in securing a quorum.

§ 5.15 The Senate directed its Sergeant at Arms to request attendance of absent Senators and, failing to obtain a quorum by this method, directed him to compel attendance of absentees.

On Nov. 14, 1942,[15] the Senate Sergeant at Arms was directed to compel the attendance of absent Senators.

THE VICE PRESIDENT:[16] The Clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names: . . .

THE PRESIDING OFFICER:[17] Twenty-seven Senators having answered to their names, there is not a quorum present. The clerk will call the names of the absent Senators.

The Chief Clerk called the names of the absent Senators.

Mr. Thomas of Oklahoma, Mr. Lee,

---

[13] See *House Rules and Manual* § 773 (1979).

[14] 116 CONG. REC. 11941, 91st Cong. 2d Sess.

[15] 88 CONG. REC. 8838, 8839, 77th Cong. 2d Sess.

[16] Henry A. Wallace (Iowa).

[17] Joseph Rosier (W. Va.).

Mr. Langer, and Mr. Kilgore entered the Chamber, and answered to their names.

The Presiding Officer: Thirty-one Senators having answered to their names, there is not a quorum present.

Mr. [Alben W.] Barkley [of Kentucky]: I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The Presiding Officer: The Sergeant at Arms will execute the order of the Senate.

After some delay, Mr. George, Mr. Gerry, Mr. Willis, Mr. Bridges, Mr. Murdock, Mr. Danaher, Mr. Gurney, Mr. Maloney, Mr. Schwartz, Mr. Ball, Mr. Taft, Mr. Lucas, and Mr. O'Mahoney entered the Chamber and answered to their names.

Mr. Barkley: Mr. President, under the previous motion made by me to direct the Sergeant at Arms to request the attendance of absent Senators, 44 Senators have appeared, 5 short of a quorum. I now move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

The motion was agreed to.

The Presiding Officer: The Sergeant at Arms will execute the order of the Senate.

§ 5.16 The Senate Sergeant at Arms is authorized to report to that body when he has carried out its orders to compel attendance of absent Senators.

On Nov. 14, 1942,[18] the Sergeant at Arms reported to the Senate after carrying out orders to compel attendance.

Mr. [Alben W.] Barkley [of Kentucky]: Mr. President, under the previous motion made by me to direct the Sergeant at Arms to request the attendance of absent Senators, 44 Senators have appeared, 5 short of a quorum. I now move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

The motion was agreed to.

The Presiding Officer [Joseph Rosier, of West Virginia]: The Sergeant at Arms will execute the order of the Senate. . . .

After some delay.

Mr. Barkley: Mr. President, I ask that the Sergeant at Arms make a report to the Senate upon the effort he has made to compel the attendance of Senators.

The Presiding Officer [Theodore F. Green, of Rhode Island]: The Sergeant at Arms will make his report.

The Sergeant at Arms (Chesley W. Jurney): Senator Aiken is out of Washington.

Mr. [Tom T.] Connally [of Texas]: A parliamentary inquiry.

The Presiding Officer: The Senator will state it.

Mr. Connally: Under what rule is this kind of proceeding authorized? I do not remember such a thing ever happening.

The Presiding Officer: Does the Senator from Texas make objection?

Mr. Connally: I do.

---

[18] 88 Cong. Rec. 8838, 8839, 77th Cong. 2d Sess.

The Presiding Officer: The objection is overruled. The Sergeant at Arms will proceed.

Mr. Connally: That is a very efficient answer to a parliamentary inquiry. I am trying to ascertain the authority for the proceeding.

The Presiding Officer: It is authorized under rule V, paragraph 3. The Sergeant at Arms will proceed.

Mr. Connally: I understand there is ample precedent for ordering Senators brought into the Chamber, but it does not necessarily follow the Sergeant at Arms can be brought in and testify and make a speech. No one else can make a speech at this time, and why should the Sergeant at Arms be permitted to do so?

The Presiding Officer: Under the rule, debate is out of order, and the Sergeant at Arms will proceed with his report.

The Sergeant at Arms: Senator Aiken is out of town.

Senator Austin is out of town. . . .

Senator Doxey is in Washington, but cannot be located either at his office or his residence. . . . .

Senator Maybank is in Washington, but cannot be located either at his office or his residence. . . .

Mr. Barkley: Mr. President, there seems to have taken place an exodus from the Senate equal to the exodus of the Children of Israel from Egypt; but there is a sufficient number of Senators in town to make a quorum. I therefore move that the Vice President be authorized and directed to issue warrants of arrest for absent Senators, and that the Sergeant at Arms be instructed to execute such warrants of arrest upon absent Senators.

Mr. Connally: Mr. President, will the Senator yield for a question?

Mr. Barkley: I yield.

Mr. Connally: I wish to ask if the excution of the warrants would require the Sergeant at Arms to go to the home States of Senators.

The Presiding Officer: The motion is not debatable.

Mr. Connally: I am propounding a parliamentary inquiry, and the Senator yielded. He is making a motion.

Mr. Barkley: Of course, when the Sergeant at Arms produces a sufficient number to make a quorum, which is five—and there are more than that many Senators in Washington, as reported by the Sergeant at Arms— it is not expected that warrants of arrest will be sent to the home States of those who are absent.

The Presiding Officer: If the motion is so phrased as to exclude them, the warrants will not be sent to the home States; otherwise they would have to be.

Mr. Barkley: The motion I made would include all absent Senators, but the practical application of it would be limited to those who are in the city.

The Presiding Officer: The motion is limited to them?

Mr. Barkley: I am willing to limit the motion to those who are reported to be in the city of Washington, in the District of Columbia, for the day.

The Presiding Officer: The question is on agreeing to the motion of the Senator from Kentucky.

The motion was agreed to.

The **Presiding Officer:** The order of the Senate will be executed.

At 2 o'clock and 8 minutes p.m., Mr.

Herring entered the Chamber and answered to his name.

At 2 o'clock and 10 minutes p.m. Mr. Bunker entered the Chamber and answered to his name.

MR. CONNALLY: Mr. President——

THE PRESIDING OFFICER [Joseph C. O'Mahoney, of Wyoming]: The Senator from Texas.

MR. CONNALLY: I rise to a question of privilege of the Senate.

THE PRESIDING OFFICER: The Chair is advised that a quorum of the Senate has not yet responded to the call of the roll. In that state of affairs, no debate is in order.

MR. CONNALLY: Mr. President, a further parliamentary inquiry. What the Chair said may be true, but I understand some things are being done, or are about to be done, in the name of the Senate, which the Senate has never authorized, and which pertain to the high privileges of the Senate. I understand that the Sergeant at Arms, under the direction of the majority leader, or someone here, is assuming the authority to deputize, or appoint as a deputy, one of the Senate custodians, with instructions to break down Senators' doors, enter their offices, and drag them out. The Senate has not ordered any such action as that, and I want to say to the Senate, or whoever authorized it, that if such person broke into my office, he would not be able to break into the office of anyone else for at least 24 hours. I simply want the Senate and the country to know the kind of tactics which are being forced upon Senators in this Chamber. It is a perfect outrage. It is in line with the unconstitutional, the unwarranted, and the absolutely outrageous action of a group in the Senate.

At 2 o'clock and 45 minutes p.m., Mr. Aiken entered the Chamber and answered to his name.

At 3 o'clock and 19 minutes p.m., Mr. Maybank entered the Chamber and answered to his name.

At 3 o'clock and 40 minutes p.m., Mr. McKellar entered the Chamber and answered to his name.

THE PRESIDING OFFICER [Berkeley L. Bunker, of Nevada]: Forty-nine Senators having answered to their names, a quorum is present.

Parliamentarian's Note: In other instances, the report of the Sergeant at Arms has been submitted to the Presiding Officer in writing and read to the Senate. See Senate Procedure (S. Doc. 97–2), Riddick, p. 180.

§ 5.17 The Senate Sergeant at Arms was directed to request the attendance of Senators when a quorum failed to appear on a quorum call.

On Apr. 26, 1958,(19) the Senate directed the Sergeant at Arms to request the attendance of absent Senators.(1)

---

(19) 104 CONG. REC. 7394, 7395, 85th Cong. 2d Sess.

(1) See also, for example, 110 CONG. REC. 10579, 88th Cong. 2d Sess., May 11, 1964; 110 CONG. REC. 4754, 4755, 88th Cong. 2d Sess., Mar. 9, 1964;

THE PRESIDING OFFICER:[2] Is there further morning business?

MR. [LYNDON B.] JOHNSON [of Texas]: Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER: The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names: . . .

THE PRESIDING OFFICER: A quorum is not present.

MR. [WILLIAM F.] KNOWLAND [of California]: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

§ 5.18 A quorum call in the Senate failed to produce a quorum until the Sergeant at Arms was directed to request attendance of absent Members.

On Apr. 22, 1965,[3] the following proceedings took place:

MR. [ALLEN J.] ELLENDER [of Louisiana]: Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER:[4] The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names: . . .

THE PRESIDING OFFICER: A quorum is not present.

MR. [PHILIP A.] HART [of Michigan]: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

THE PRESIDING OFFICER:[5] The question is on agreeing to the motion of the Senator from Michigan.

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

The Presiding Officer subsequently declared a quorum to be present.

§ 5.19 The Presiding Officer described the procedure for requesting or compelling the attendance of absent Senators.

On May 18, 1950,[6] the Presiding Officer, Matthew M. Neely, of West Virginia, explained the procedure for obtaining attendance of absent Senators.

MR. [BRIEN] MCMAHON [of Connecticut]: I suggest the absence of a quorum.

THE PRESIDING OFFICER: The clerk will call the role. . . .

A quorum is not present.

MR. [HUBERT H.] HUMPHREY [of

---

and 108 CONG. REC. 14952, 14953, 87th Cong. 2d Sess., July 28, 1962.

[2] Herman E. Talmadge (Ga.).

[3] 111 CONG. REC. 8299, 89th Cong. 1st Sess.

[4] Fred Harris (Okla.).

[5] Walter F. Mondale (Minn.).

[6] 96 CONG. REC. 7204, 81st Cong. 2d Sess.

Minnesota]: I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The Presiding Officer: The provision of the rule is that a majority of Senators present may direct the Sergeant at Arms to request, and when necessary, to compel the attendance of absent Senators. Does the Senator from Minnesota make that motion?

Mr. Humphrey: I make that motion, Mr. President.

The motion was agreed to.

The Presiding Officer: The Sergeant at Arms will execute the order of the Senate.

§ 5.20 In the absence of a quorum, a motion that the Sergeant at Arms arrest the absentees and bring them before the bar of the Senate is in order.

On the calendar day of July 28, 1962,(7) the Senate Sergeant at Arms was directed to request the attendance of absent Senators.(8)

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Vice President. . . .

Call of the House

The Vice President:(9) The Senate having taken a recess last night in the absence of a quorum, no business can be transacted until a quorum is present.

The clerk will therefore call the roll for the purpose of developing a quorum.

The legislative clerk called the roll; and the following Senators answered to their names: . . .

The Vice President: A quorum is not present.

Mr. [Hubert H.] Humphrey [of Minnesota]: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The Vice President: The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

The Vice President: The Sergeant at Arms is instructed to execute the order of the Senate. . . .

Mr. Humphrey: Mr. President, a parliamentary inquiry: Is a quorum present?

The Vice President: No.

Mr. Humphrey: Mr. President, is the only procedure left to the acting majority leader to invoke the rule of arrest?

The Vice President: That would be a matter for the judgment of the leadership. Such a motion would be in order.

---

7. 108 Cong. Rec. 14952, 14953, 87th Cong. 2d Sess., July 30, 1962. [Because no Record was printed for July 28, proceedings for that day appear on July 30.]

8. *Parliamentarian's Note:* The Senate remained in session for over 10 hours but conducted no business because a quorum could not be maintained on the floor. The first of the two quorum calls held on this date began at 10:00 a.m. and ended at 2:52 p.m. The second call began at 2:58 and ended at 8:10 p.m.

9. Lyndon B. Johnson (Tex.).

§ 5.21 The motion to compel attendance of absent Senators is not debatable.

On May 11, 1964,(10) a motion to request attendance and two motions to compel attendance were made before a quorum appeared.

> Mr. [Wayne L.] Morse [of Oregon]: Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators.
>
> The Presiding Officer:(11) The question is on agreeing to the motion of the Senator from Oregon.
>
> Mr. [George A.] Smathers [of Florida]: Mr. President, a parliamentary inquiry.
>
> The Presiding Officer: The Senator will state it.
>
> Mr. Smathers: Is the motion debatable?
>
> The Presiding Officer: No debate is in order.

§ 6. Closing or Locking the Doors

The rules of the House formerly provided for closing the doors to the Chamber to prohibit Members from leaving until a quorum was reached. The current provision, Rule XV clause 2(b), as amended in 1972,(12) states that on a call of the House, "the doors shall not be closed except when so ordered by the Speaker." It is within the Chair's discretion whether the doors are to be closed.

An unusual illustration of the application of the rules relating to calls of the House occurred on Oct. 8, 1968. On that day, the House was scheduled to debate House Resolution 1315, to provide for consideration of Senate Joint Resolution 175, a measure suspending for the 1968 campaign the equal-time requirements of section 315 of the Communications Act of 1934, for nominees for the offices of President and Vice President.(13) The first roll call (No. 375) took place immediately after the prayer.(14) After completion of this roll call, a full reading of the Journal was demanded.(15) Following three and one-half hours of roll call votes and quorum calls which interrupted reading of the Journal, Speaker John W. McCormack, of Massachu-

---

10. 110 Cong. Rec. 10579, 88th Cong. 2d Sess.
11. William Proxmire (Wis.).
12. H. Res. 1123, 92d Cong. 2d Sess., Oct. 13, 1972, 118 Cong. Rec. 36012.
13. 114 Cong. Rec. 30217, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).
14. 114 Cong. Rec. 30089, 30090, 90th Cong. 2d Sess., Oct. 8, 1968.
15. 114 Cong. Rec. 30090, 90th Cong. 2d Sess., Oct. 8, 1968.

setts, after it was indicated that the Chair had authority to order the Doorkeeper to close or lock the doors,(16) issued such an order during the progress of quorum calls.(17)

The reading of the Journal was interrupted by 33 calls of the House until about 5:00 a.m. on the calendar day of Oct. 9, 1968, when a majority of Members present ordered the doors to the Chamber locked and ordered "those who are not present to be sent for and returned here on the condition that they shall not be allowed to leave the Chamber until the pending business shall have been completed."(18) The authority for this motion and the condition that Members be confined to the Chamber rested on Rule XV clause 2(a),(1) which empowers 15 Members, including the Speaker:

> . . . [T]o compel the attendance of absent Members; and those for whom no sufficient excuse is made may, by order of a majority of those present, be sent for and arrested . . . and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged. . . .

Although neither the motion nor the rule appear on the surface to apply to Members who were present during passage of the motion to secure attendance, Speaker McCormack ruled that no Member could leave the Chamber until after reading and approval of the Journal.(2) After several parliamentary inquiries(3) and approval of the Journal, the Speaker ordered the doors opened.(4)

In General

§ 6.1 The Speaker stated that the Chair has authority to order the doors closed during a call of the House, but indicated that without further direction from the House he would not assume authority to lock the doors and keep Members from retiring from the Chamber.

---

16. See § 6.2, infra. See also § 6.1, infra, in which Speaker Sam Rayburn (Tex.), while stating that the Speaker has authority to order the doors closed, said he would not order doors locked unless so directed by the House.
17. See § 6.3, infra.
18. § 6.5, infra.
1. See *House Rules and Manual* § 768 (1979).
2. § 6.6, infra.
3. §§ 6.6–6.8, infra.
4. § 6.11, infra. The legislative day of Oct. 8, 1968, which commenced at noon on Oct. 8 (114 Cong. Rec. 30089, 90th Cong. 2d Sess.) and adjourned at 8:17 p.m. on the Calendar Day of Oct. 9, 1968 (*Id.* at p. 30304), lasted over 32 hours.

On Aug. 1, 1946,(5) Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry regarding the Chair's authority to order doors closed.

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, under the rules of the House, when the House finds itself without a quorum the Presiding Officer must direct the Sergeant at Arms to notify absentees, the Doorkeeper to close the doors, and the Clerk to call the roll. These two officials are elected by the House of Representatives, and among their other duties they are to assist the Speaker in enforcing the rules of the House.

In the present case, for instance, the Speaker determined that a quorum was not present and directed the Sergeant at Arms to notify the absentees. He directed the Doorkeeper to close the doors, the Clerk called the roll, and a quorum was found present. . . .

Pursuing my inquiry, Mr. Speaker, is not the Speaker clothed with adequate power and can he not direct that the rules be complied with and that all of the doors be actually locked during the roll call, and that all of the doors to the Chamber remain locked until the House votes to dispense with further proceedings under the call? . . .

THE SPEAKER: It is an interesting question, and it has been passed on many times. The Chair certainly has the authority to order the doors closed without further authority from the House. The Chair would not hold that without authority or direction of the House he should assume the authority of locking the doors and keeping the Members from retiring from the Chamber. There is a way that the Chair can be clothed with proper authority.

The Chair will count to determine whether there is a quorum present. [After counting.] Two hundred Members are present, not a quorum.

§ 6.2 Following over three hours of delay caused by quorum calls during the reading of the Journal, the Chair, in response to a parliamentary inquiry, stated that the rules of the House provided for locking the doors to the Chamber to prohibit Members from leaving until a quorum is procured.

On Oct. 8, 1968,(6) the Speaker pro tempore, Wilbur D. Mills, of Arkansas, stated that the rules permit locking doors during a call of the House.

MR. [RAY J.] MADDEN [of Indiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman from Indiana will state it.

MR. MADDEN: Mr. Speaker, owing to the fact that the chairman of the Rules Committee has asked me to take up House Resolution 1315, which provides an open rule and 1 hour of general debate for consideration of Senate Joint Resolution 175, to suspend for

---

5. 92 CONG. REC. 10639, 10640, 79th Cong. 2d Sess.

6. 114 CONG. REC. 30092, 30093, 90th Cong. 2d Sess.

the 1968 campaign the equal-time requirements of section 315 of the Communications Act of 1934 for nominees for the offices of President and Vice President, my inquiry is this: I know, owing to the fact that we came in at 12 o'clock and it is now 3:30, the minority side has carried on a system of quorum calls which have taken 3½ hours of the time of Members. . . .

Mr. Speaker, I will state my parliamentary inquiry. Mr. Speaker, a number of State legislatures over the Nation have a rule—and I do not know whether this body has a similar rule—that where an organized agreement, we might say, on the part of the minority side——

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, regular order.

The Speaker Pro Tempore: The gentleman from Indiana will state his parliamentary inquiry.

Mr. Madden: Mr. Speaker, since a group has decided to impede the progress of legislation, and a number of State legislatures have a rule to the effect I have indicated, I am inquiring as to whether a similar rule exists in the House of Representatives, that the guards can lock the doors and prevent Members from leaving during the progress of or after a quorum call has taken place? . . .

The Speaker Pro Tempore: Yes. The Chair advises the gentleman there is such a rule. And it may become necessary to enforce that rule. . . .

Mr. Madden: Mr. Speaker, how long will it be before the time should come to enforce that rule?

The Speaker Pro Tempore: It depends upon the patience of the Chair.

The Clerk will continue the reading of the Journal.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

Parliamentarian's Note: While Rule XV clause 2,(7) stated that on a call of the House "the doors shall be closed," it was within the Chair's discretion whether the doors were merely closed [as was the custom] or actually locked.

§ 6.3 The Speaker ordered the doors to the Chamber closed and locked during a call of the House under Rule XV clause 2,(8) and instructed the Doorkeeper to enforce the rule and let no Members leave the Hall.

On Oct. 8, 1968,(9) Speaker John W. McCormack, of Massachusetts, ordered the doors locked.

Mr. [Donald] Rumsfeld [of Illinois]: Mr. Speaker, I make the point of order that a quorum is not present.

The Speaker Pro Tempore:(10) The Chair will count.

One hundred sixty-seven Members are present, not a quorum.

Mr. [John H.] Dent [of Pennsyl-

---

7. See *House Rules and Manual* § 768 (1967).
8. See *House Rules and Manual* § 768 (1967).
9. 114 Cong. Rec. 30093, 90th Cong. 2d Sess.
10. Wilbur D. Mills (Ark.).

vania]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: A parliamentary inquiry cannot be asked at this time.

Mr. [John J.] McFall [of California]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Speaker: The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

Mr. Dent: Mr. Speaker, a point of order, which relates to the call of the roll.

The Speaker: The House will be in order. The Clerk will proceed with the call of the roll.

Mr. Dent: Mr. Speaker, the point of order relates to the proper calling of the roll.

The Speaker: The gentleman will state his point of order.

Mr. Dent: The point of order is the doors were ordered closed, and the doors to the outside of the Chamber are open in the cloakrooms.

The Speaker: The Chair has given instructions to close all doors and allow no Members out.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

The Speaker: On this rollcall 277 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

Parliamentarian's Note: The Chair personally instructed the Doorkeepers to lock all exits from the House Chamber and to prohibit Members from leaving during the call of the House. Doors leading from the Chamber to the Speaker's lobby, as well as those opening from the cloakrooms to the north corridor in the House wing were locked.

The Speaker ordered the doors locked during roll calls numbered 382 and 383. When this remedy did not prove effective because Members continued to leave the Chamber immediately after the calls were dispensed with, he did not continue to enforce the rule. See §§6.10, 6.11, infra, which relate to opening the doors.

§ 6.4 Because the Chair had no inherent authority to order the doors to the Chamber locked except during a call of the House, he could not lock the doors to prevent Members from leaving after a motion to dispense with further proceedings under a call was agreed to.

On Oct. 8, 1968,(11) Speaker John W. McCormack, of Massachusetts, made a ruling with respect to reopening doors after dispensation

---

11. 114 Cong. Rec. 30093, 90th Cong. 2d Sess.

of further proceedings under the call.[12]

Mr. [Craig] Hosmer [of California]: Mr. Speaker, a point of order having been made of no quorum, a quorum having been called, and a quorum having been found present, and the further proceedings under the call having been dispensed with, does that mean that the doors of the House are now unlocked?

The Speaker: The gentleman is correct.

The Clerk will continue to read the Journal of the proceedings of yesterday.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

Mr. [Ray J.] Madden [of Indiana]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Madden: Mr. Speaker, observing the commotion over on the minority side, I inquire would it be in order to again order that the doors be closed?

The Speaker: At this point the answer is, No.

The Clerk will read.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

§ 6.5 The Speaker, in the absence of a quorum and pursuant to a motion from the floor, ordered the doors to the Chamber locked to prevent Members from leaving until completion of the pending business—reading and approval of the Journal.

On the legislative day of Oct. 8, 1968,[13] the House ordered the doors locked.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I move a call of the House.

Mr. [Brock] Adams [of Washington]: Mr. Speaker, as a part of the motion of a call of the House, I further move under rule II,[14] under which a call of the House is in order, that a motion be made for the majority here that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.

The Speaker:[15] The question is on the motion offered by the gentleman from Washington [Mr. Adams].

The motion was agreed to.

The Clerk proceeded to call the roll.

---

[12] See § 6.5, infra, in which the doors remained locked until disposition of the "pending business," the reading and approval of the Journal. In that instance, as distinguished from this one, the doors were locked and kept locked by order of the House pursuant to motion rather than by order of the Speaker.

[13] 114 Cong. Rec. 30212, 30213, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

[14] *Parliamentarian's Note:* A call of the House by motion is in order under Rule XV clause 2 [see *House Rules and Manual* § 768 (1979)].

[15] John W. McCormack (Mass.).

MR. [LESTER L.] WOLFF [of New York]: Mr. Speaker, a point of order.

THE SPEAKER: The Chair will state to the gentleman from New York that there is a quorum call underway and it cannot be interfered with.

MR. WOLFF: Mr. Speaker, I make a point of order on the quorum call.

THE SPEAKER: The gentleman makes a point of order?

MR. WOLFF: Yes, Mr. Speaker. The doors are not locked.

THE SPEAKER: The Sergeant at Arms will lock the doors, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this rollcall 222 Members have answered to their names, a quorum.

MR. ALBERT: Mr. Speaker, I move that further proceedings under the call be dispensed with.

THE SPEAKER: The question is on the motion offered by the gentleman from Oklahoma.

The motion was agreed to.

MR. [JAMES C.] CLEVELAND [of New Hampshire]: Mr. Speaker.

THE SPEAKER: Does the gentleman from New Hampshire desire to make a parliamentary inquiry?

MR. CLEVELAND: No, Mr. Speaker, I make a point of order. I object to the vote on the ground that a quorum is not present.

THE SPEAKER: A quorum has just been established.

MR. [WILLIAM E.] BROCK [3d, of Tennessee]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BROCK: Am I to understand, if further proceedings under the call have been dispensed with, according to the last motion, it is correct that the doors of the House are now open?

THE SPEAKER: The Chair is awfully glad the gentleman made that parliamentary inquiry, because the Chair intended to read for the benefit of the Members the motion made by the gentleman from Washington [Mr. Adams]:

> Mr. Speaker, as a part of the motion of a call of the House, I further move under rule II, under which a call of the House is in order, that a motion be made for the majority here that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.

The motion was adopted; and in accordance with that motion no Member can leave the Chamber until the pending business before the House has been disposed of; and the pending business is the reading and approval of the Journal of the preceding session.

Parliamentarian's Note: Where a motion which might have been subject to a point of order (if a point of order had been raised in a timely fashion) is, in the absence of a point of order, agreed to, it represents the will of the House and governs its procedure until the House orders otherwise. See § 6.7, infra, for detailed discussion.

The motion was adopted after 33 quorum calls had delayed pending business, the reading and approval of the Journal.

Effects of Closing or Locking the Doors

§ 6.6 Where the House in the absence of a quorum and pursuant to motion had ordered that "those who are not present be sent for wherever found and returned here on the condition that they shall not be allowed to leave the Chamber until the pending business shall have been completed" and then ordered a call of the House, the Speaker interpreted the motion as requiring the retention in the Chamber of all Members responding on the call—not merely the retention of those Members who were absent when the order was entered into.

On the legislative day of Oct. 8, 1968,(16) Speaker John W. McCormack, of Massachusetts, to achieve a quorum most expediently interpreted a motion as not to allow Members to leave the Chamber.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Gerald R. Ford: Let me repeat the language of the motion of the gentleman from Washington:

> That a motion be made for the majority here that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.

Mr. Speaker, I respectfully argue that in the language used by the gentleman from Washington in the motion that he made, he says very specifically and very categorically that those who are not here are the ones who must be kept in the Chamber.

Mr. [John D.] Dingell [of Michigan]: Mr. Speaker, I demand the regular order.

The Speaker: The regular order is that the gentleman is making a parliamentary inquiry.

Mr. Gerald R. Ford: And I am indicating, Mr. Speaker, in my parliamentary inquiry, that the doors to the Chamber shall not be closed to those Members who were here at the time of the call for the quorum.

The Speaker: The Chair, in response to the parliamentary inquiry of the distinguished minority leader, feels, in construing the motion, that a part of the construction is the happenings of the last 10 or 12 or more hours and the intent and purpose of the gentleman from Washington in making the motion.

It seems to the Chair, in response to the parliamentary inquiry—and the

---

16. 114 Cong. Rec. 30213, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

Chair makes such a response—that the motion offered by the gentleman from Washington [Mr. Adams] meant that any Member who answered the last quorum call cannot leave the Chamber until the pending business has been disposed of; and the doors will be kept closed.

The Chair might observe in relation to any future points of order that a quorum is not present that apparently a quorum is present because the last one disclosed 222 Members and the Chair is justified in assuming that the 222 Members are still here. The doors will remain locked until the present business is disposed of.

Parliamentarian's Note: Where the doors to the Chamber were, by order of the House, locked until disposition of pending business, and a quorum had been established, the Chair stated that further points of no quorum would be considered dilatory until the business was completed and the doors opened.

§ 6.7 Where the House had ordered the doors to the Chamber locked pending the disposition of pending business, it was not in order by way of a point of personal privilege or by raising a question of the privilege of the House to collaterally attack such order, since it had been adopted by the House at a previous time without challenge.

On the legislative day of Oct. 8, 1968,(17) Speaker John W. McCormack, of Massachusetts, refused to recognize a Member to collaterally raise an issue relating to restraint of Members under the guise of a question of privilege.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

MR. [ROBERT J.] DOLE [of Kansas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair will not entertain any more parliamentary inquiries at this particular time.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that the further reading of the Journal be dispensed with.

THE SPEAKER: Is there objection to the request of the gentleman from Oklahoma?

MR. [ROBERT] TAFT [Jr., of Ohio]: Mr. Speaker, I object.

THE SPEAKER: Objection is heard.

The Clerk will continue with the reading of the Journal of the proceedings of yesterday.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

MR. TAFT: Mr. Speaker——

THE SPEAKER: For what purpose does the gentleman from Ohio rise?

MR. TAFT: Mr. Speaker, I have a privileged motion.

MR. [SIDNEY R.] YATES [of Illinois]: A point of order, Mr. Speaker. That is not in order until the reading of the Journal has been completed.

---

17. 114 CONG. REC. 30214–16, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

The Speaker: Will the gentleman from Ohio state his privileged motion?

Mr. Taft: Mr. Speaker, my motion is on a point of personal privilege.

The Speaker: Will the gentleman from Ohio state whether it is a point of personal privilege or a privileged motion?

Mr. Taft: It is a privileged motion, and a motion of personal privilege.

Under rule IX[18] questions of personal privilege are privileged motions, ahead of the reading of the Journal.

The Speaker: The Chair will advise the gentleman that a question of personal privilege should be made later after the Journal has been disposed of.

If the gentleman has a matter of privilege of the House, that is an entirely different situation.

Mr. Taft: I believe, Mr. Speaker, this involves not only personal privilege as an individual, but also as a Member of the House and also the privileges of all Members of the House.

The Speaker: The Chair does not recognize the gentleman at this time on a matter of personal privilege.

But the Chair will, after the pending matter, the reading of the Journal has been disposed of, recognize the gentleman if the gentleman seeks recognition.

Mr. Taft: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state the parliamentary inquiry.

Mr. Taft: Mr. Speaker, is it not true in rule IX relating to questions of privilege it is stated that such questions shall have precedence over all other questions except motions to adjourn?

The Speaker: Will the gentleman state the question of privilege.

Mr. Taft: Mr. Speaker, my motion is that I and all other Members in the Chamber who were here at the time of the last quorum call and answered "present" be permitted to leave the Chamber at their desire.

Mr. Speaker, this is a matter of privilege of the Members of the House because there is no right under the rules of the House or under the statutes, or the Constitution of the United States to interfere with the liberty of a Member to leave the House under these circumstances.

The Speaker: The Chair will state in response to the parliamentary inquiry that the action of the House has deprived—has caused the doors to be closed and has deprived temporarily the privilege that the gentleman refers to. That has been done by the action of the House.

Mr. Taft: Mr. Speaker, I was recognized to make a privileged motion and it was not a matter of a parliamentary inquiry. I have made that motion and I ask that the Chair rule on the motion.

The Speaker: What is the motion?

Mr. Taft: I request that I be given time to discuss the motion as a matter of privilege.

The Speaker: The gentleman will state his motion.

Mr. Taft: Mr. Speaker, my motion is that I and all other Members present on the floor who answered "present" at the time of the last quorum call shall be permitted to leave the House freely at their own desire.

The basis of my motion is under the

---

[18] See *House Rules and Manual* § 661 (1979).

rules of the House and the Constitution and statutes of the United States there is no basis for restricting the freedom of Members who were here at the time there is a quorum call, regardless of the action of the House.

The Speaker: The Chair does not recognize the gentleman for the purpose of making such a motion because the Chair has already clearly indicated the House has already taken action and it is within the power of the House to take the action that it did. Therefore, the Chair does not recognize the gentleman to make such a motion.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, it was my understanding that the gentleman from Ohio had been recognized for the purpose of offering the motion.

The Speaker: The gentleman from Michigan is well aware of the fact that the question of recognition rests with the Chair. The gentleman did not make a motion which was in order by reason of the action heretofore taken by the House.

The Clerk will continue to read the Journal.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

Appeal From Ruling of Chair

Mr. Taft: Mr. Speaker, I appeal the ruling of the Chair.

Mr. Albert: Mr. Speaker, I move that the appeal be laid on the table.

The Speaker: The gentleman from Oklahoma moves that the appeal be laid on the table.

The question was taken.

Mr. Taft: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 136, nays 102, answered "present" 1, not voting 192, as follows: . . .

So the motion to lay on the table was agreed to.

Parliamentarian's Note: While the Speaker declined to entertain the motion as a question of privilege based upon Mr. Taft's contention that under the Constitution and rules the freedom of Members who were present should not be restricted, the specific argument was not made that the order had been agreed to by less than a quorum or that it was directed only to the attendance of absentees and not to those present in the Chamber. This precedent does not, then, stand for the proposition that an improper order of the House or the manner of execution of an order of the House can never be collaterally attacked as a matter of the privilege of the House—it merely suggests that the proper contention was not made when the question of privilege was raised. Under the precedent in 5 Hinds' Precedents § 5665, the motion to reconsider the vote whereby the order of the House had been agreed to would have been in order, although the execution of that order had begun. In that case, the order was to arrest absent Members.

§ 6.8 Where the doors were closed during a call of the House under Rule XV clause 2,(19) all Members were restrained from leaving the Chamber [unless special permission was granted by the Speaker or the House] notwithstanding the fact that official business of the House, such as their attendance at a meeting of a committee of conference, might normally have required their presence elsewhere.

On Oct. 8, 1968,(20) the Speaker pro tempore, Wilbur D. Mills, of Arkansas, made a ruling with respect to restraining Members during a call of the House.

Mr. [Clark] MacGregor [of Minnesota]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman from Minnesota will state it.

Mr. MacGregor: Mr. Speaker, should the time come when the Chair is constrained to invoke the rule referred to by the gentleman from Indiana [Mr. Madden], would that mean those Members who are conferees and who are here from the committee of conference would be prevented from returning to that conference committee for the conference on the Senate side, so as to discharge our responsibilities with respect to the gun control legislation?

The Speaker Pro Tempore: Yes. If the doors should be closed, they will remain closed until a quorum is present.

Mr. MacGregor: And the Members would then be prevented from proceeding with the gun control conference.

The Speaker Pro Tempore: The Clerk will proceed with the further reading of the Journal of the proceedings of yesterday.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

§ 6.9 Where the doors to the Chamber were locked by order of the House to prevent Members from leaving until the pending business was completed, employees of the House could still enter and exit from the Chamber in the performance of their duties.

On the legislative day of Oct. 8, 1968,(21) the Speaker, John W. McCormack, of Massachusetts, interpreted a motion to lock the doors to the Chamber as restraining only Members, not House employees.

The Speaker: The Clerk will continue with the reading of the Journal of the proceedings of yesterday.

The Clerk proceeded to read the

---

19. See *House Rules and Manual* § 768 (1967).

20. 114 Cong. Rec. 30092, 30093, 90th Cong. 2d Sess.

21. 114 Cong. Rec. 30216, 30217, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

Journal of the proceedings of yesterday.

Mr. [Frank] Horton [of New York]: Mr. Speaker, I offer a preferential motion.

The Speaker: The gentleman will state his preferential motion.

Mr. Horton: Mr. Speaker, this preferential motion is on Rule IX.(1) I understand the doors are closed to the House Chamber, and this affects the employees of the House and therefore the employees in the cloakrooms and the employees of the House are locked in with the rest of the Members.

Therefore, Mr. Speaker, I move that the doors be opened insofar as the employees of the House are concerned.

The Speaker: The Chair will state to the gentleman that the employees have the right to leave, and to come back. Only the Members are affected by the motion.

Reopening Doors

§ 6.10 Where the doors to the Chamber were closed and locked during a call of the House pursuant to Rule XV clause 2,(2) and the order of the Speaker, they were reopened without further instructions from the Chair when further proceedings under the call were dispensed with.

On Oct. 8, 1968,(3) Speaker John W. McCormack, of Massachusetts, made a ruling with respect to reopening doors after dispensing with further proceedings under the call.

> Mr. [Craig] Hosmer [of California]: Mr. Speaker, a point of order having been made of no quorum, a quorum having been called, and a quorum having been found present, and the further proceedings under the call having been dispensed with, does that mean that the doors of the House are now unlocked?
>
> The Speaker: The gentleman is correct.

§ 6.11 Doors to the House Chamber which had been locked by order of the House pending disposition of certain business, were reopened, pursuant to instructions from the Speaker, as soon as that business was completed.

On the legislative day of Oct. 8, 1968,(4) the doors to the Chamber were reopened after completion of the business pending at the time the motion was made, the reading and approval of the Journal.

> Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, I ask the parliamentary

---

1. See *House Rules and Manual* § 661 (1979).
2. See *House Rules and Manual* § 768 (1967).
3. 114 Cong. Rec. 30093, 90th Cong. 2d Sess.
4. 114 Cong. Rec. 30217, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

inquiry. Are the doors to the Chamber now locked?

THE SPEAKER:[5] In response to the inquiry, the Chair will state that the pertinent part of the motion made by the gentleman from Washington [Mr. Adams], which relates to the inquiry made by the gentleman from Michigan, is:

> That they shall not be allowed to leave the chamber until such time as the pending business—

The pending business—

> before this chamber on this legislative day shall have been completed.

As the Chair stated previously in response to a parliamentary inquiry, the pending business was the reading and approval of the Journal of the House. And the Chair, in response to the parliamentary inquiry, reiterates that reply, that the business before the House at that time which was pending was the Journal of the preceding session.

Accordingly, the doors will be opened.

MR. GERALD R. FORD: I thank the distinguished Speaker.

Parliamentarian's Note: The doors were reopened after a member of the Committee on Rules, Ray J. Madden, of Indiana, called up House Resolution 1315, which provided for consideration of a joint resolution to suspend for the 1968 campaign the equal-time requirements of section 315 of the Communications Act of 1934 for President and Vice President.

§ 7. The Call in the Committee of the Whole

This section discusses quorum calls in the Committee of the Whole.[6]

Prior to revisions of the rule beginning in the 93d Congress, Rule XXIII clause 2[7] provided that in the absence of a quorum, which consists of 100 Members, the Chairman of the Committee of the Whole should invoke the procedure for a call of the roll under Rule XV clause 5,[8] to record names of Members by electronic device, unless, in his discretion, he ordered a call of the Committee to be taken under the procedure set forth in Rule XV clause 2(b),[9] to record names of those present by clerk tellers. Following completion of either of these counts, the Committee rose and the Chairman reported the names of the absentees to the House.[10] Those names were entered on the Journal. If a quorum of the Committee had appeared, the Committee resumed its sitting without motion. Other provisions to be discussed in more detail in the supplement, and presently cited in the annotations appearing in § 863 of the *House Rules and Manual*, relate to changes in clause 2, Rule XXIII adopted since the 93d Congress.[11] On Jan. 4, 1977, clause 2 was substantially changed to allow quorum calls only under the five-minute rule where the Chair has put the question on a pending proposition, after a quorum of the Committee of the Whole has been once established on that day. The clause was amended again in the 96th

---

[5] John W. McCormack (Mass.).

[6] See § 16, infra, for discussion of the point of order that a quorum is not present in the Committee of the Whole.

[7] See *House Rules and Manual* § 863 (1979).

[8] *House Rules and Manual* § 774b (1979).

[9] *House Rules and Manual* § 771b (1979).

---

[10] Rule XXIII clause 2, *House Rules and Manual* § 863 (1973).

[11] Rule XXIII clause 2(a), *House Rules and Manual* § 863 (1981) provides as follows:

"A quorum of a Committee of the Whole shall consist of one hundred Members. The first time that a Committee of the Whole finds itself without a quorum during any day, the Chairman shall invoke the procedure for the call of the roll under clause 5 of Rule XV, unless, in his discretion he orders a call of the Committee to be taken by the procedure set forth in clause 1 or clause 2(b) of Rule XV: *Provided*, That the Chairman may in his discretion refuse to entertain a point of order that a quorum is not present during general debate only. If on such call, a quorum shall appear, the Committee shall continue its business; but if a quorum does not appear, the Committee shall rise and the Chairman shall report the names of the absentees to the House. After the roll has been once called to establish a quorum during such day, the Chairman may not entertain a point of order that a quorum is not present unless the Committee is operating under the five-minute rule and the Chairman has put the pending motion or proposition to a vote; and if the Chairman sustains a point of order that a quorum is not present after putting the question on such a motion or proposition, he may announce that following a regular quorum call conducted pursuant to the previous provisions of this clause, he will reduce to not less than five minutes the period of time within which a recorded vote on the pending question may be taken if such a vote is ordered. If, at any time during the conduct of any quorum call in a Committee of the Whole, the Chairman determines that a quorum is present, he may, in his discretion and subject to his prior announcement, declare that a quorum is constituted. Proceedings under the call shall then be considered as vacated, and the Committee shall not rise but shall continue its sitting and resume its business."

Congress to permit the Committee to continue its business following the appearance of a quorum so that the Speaker need not take the chair to receive the Committee's report of absentees if a quorum has appeared, and to enable the Chairman to reduce to five minutes the period for a recorded vote immediately following a regular quorum call. In the 97th Congress the rule was amended to allow the Chairman the discretion of whether to entertain a point of order of no quorum during general debate. The last two sentences of the clause, permitting the Chair to vacate proceedings under the call in his discretion when a quorum appears, were added in the 93d Congress on Apr. 9, 1974.

The "automatic" vote by yeas and nays(12) is not permitted in the Committee of the Whole as it is in the House and in the House as in Committee of the Whole.(13)

In General

§ 7.1 Where there is a failure of a quorum in the Committee of the Whole and the roll is called, it is a quorum of the Committee (100) and not of the House which must appear under Rule XXIII clause 2.(14)

On Oct. 12, 1966,(15) a quorum of the Committee of the Whole appeared under the following circumstances.

> MR. [JOHN P.] SAYLOR [of Pennsylvania]: Mr. Chairman, I make the point of order that a quorum is not present.
>
> THE CHAIRMAN:(16) The Chair will count. [After counting.] Ninety-five Members are present, not a quorum.
>
> The Clerk will call the roll.
>
> The Clerk called the roll, and the following Members failed to answer to their names: . . .
>
> Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. King of Utah, the Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12047), and finding itself without a quorum, he had directed the roll to be called, when 211 Members responded

---

12. Rule XV clause 4, *House Rules and Manual* § 773 (1979).
13. § 7.3, infra, and the annotation to Rule XV clause 4, *House Rules and Manual* § 774a (1979); see also § 2, supra, for a discussion of the distinctions between an automatic vote by yeas and nays under Rule XV clause 4, and the call of the House on motion under Rule XV clause 2.
14. See *House Rules and Manual* § 836 (1979).
15. 112 CONG. REC. 26247, 26248, 89th Cong. 2d Sess.
16. David S. King (Utah).

to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

§ 7.2 Where a Committee of the Whole finds itself without a quorum, the Chair directs the Clerk to call the roll; at the completion thereof the Committee automatically rises and the Chairman reports the result of the roll call and reports the names of the absentees, whereupon the Speaker directs that the names of the absentees be spread upon the Journal and that the Committee resume its session if a quorum has appeared on the roll call.

On May 14, 1930,(17) the Chairman, Scott Leavitt, of Montana, directed the Clerk to call the roll.

MR. [ROSS A.] COLLINS [of Mississippi]: Mr. Chairman, I make the point of order that there is no quorum present.

THE CHAIRMAN: The gentleman from Mississippi makes the point of order that there is no quorum present. The Chair will count. [After counting.] Seventy-one Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE CHAIRMAN: The committee will rise and report to the House.

Thereupon the committee rose; and the Speaker pro tempore having resumed the chair, Mr. Leavitt, Chairman of the Committee of the Whole House on the state of the Union, having under consideration the bill (H.R. 2152) to promote the agriculture of the United States by expanding in the foreign field the service now rendered by the United States Department of Agriculture in acquiring and diffusing useful information regarding agriculture, and for other purposes, reported that that committee had found itself without a quorum, that he had ordered the roll to be called, whereupon it was developed that there were present 255 Members, and he submitted the names of the absentees.

THE SPEAKER PRO TEMPORE:(18) A quorum is present. The committee will resume its session.

The committee resumed its session.

Parliamentarian's Note: The precedents carried in this section predate amendments to the Rules of the House since the 93d Congress which limit quorum calls in the Committee of the Whole and which permit the Committee to continue its business following the appearance of a quorum without the Speaker having to take the Chair. See the introduction to this section.

---

17. 72 CONG. REC. 2152, 71st Cong. 2d Sess. See also 74 CONG. REC. 899, 71st Cong. 3d Sess., Dec. 16, 1930.

18. John Q. Tilson (Conn.).

§ 7.3 The provisions of Rule XV clause 4,[19] which permit a Member to object to a vote where a quorum is not present, are applicable only in the House; an automatic vote by yeas and nays is not in order in the Committee of the Whole.

On June 7, 1973,[20] during consideration of H.R. 7446, to establish the American Revolution Bicentennial Administration, Chairman Henry B. Gonzales, of Texas, clarified the procedures applicable in the Committee of the Whole.[1]

> THE CHAIRMAN: The question is on the amendments offered by the gentleman from Pennsylvania (Mr. Williams).
>
> The question was taken; and the Chairman announced that the noes appeared to have it.
>
> MR. [LAWRENCE G.] WILLIAMS: Mr. Chairman, I demand a recorded vote.
>
> THE CHAIRMAN: A recorded vote has been demanded.
>
> MR. WILLIAMS: Mr. Chairman, I withdraw that. I make the point of order that a quorum is not present, and I object to the vote on that basis.
>
> THE CHAIRMAN: The Chair advises the gentleman from Pennsylvania that that procedure is not in order in the Committee of the Whole.
>
> MR. WILLIAMS: Mr. Chairman, I make a point of order. I object to the vote on the ground that a quorum is not present, and I request a rollcall vote.
>
> I can object to the vote on the grounds that a quorum is not present and insist on my point of order.
>
> THE CHAIRMAN: Not in the Committee of the Whole, the Chair wishes to advise.
>
> The gentleman may be advised that he may wish to raise a point of order that a quorum is not present.
>
> MR. WILLIAMS: That is exactly what I have done.
>
> THE CHAIRMAN: But the gentleman must be advised that during proceedings of the Committee of the Whole, an automatic vote is not a proper request.
>
> MR. WILLIAMS: Mr. Chairman, I make a point of order against the vote previously taken on the basis that a quorum is not present.
>
> THE CHAIRMAN: The gentleman from Pennsylvania raises the point of order that a quorum is not present. Is that what the gentleman wishes?
>
> MR. WILLIAMS: No. I demand a recorded vote.
>
> THE CHAIRMAN: The Chair will remind the gentleman from Pennsylvania that that demand has been withdrawn.
>
> MR. WILLIAMS: I did withdraw it before. I am now requesting a recorded vote.
>
> THE CHAIRMAN: The gentleman from Pennsylvania now demands a recorded vote on his amendments.

---

[19] See *House Rules and Manual* § 773 (1979).

[20] 119 CONG. REC. 18521, 93d Cong. 1st Sess.

[1] See also 117 CONG. REC. 40054, 92d Cong. 1st Sess., Nov. 9, 1971; and 116 CONG. REC. 42232, 42233, 91st Cong. 2d Sess., Dec. 17, 1970.

A recorded vote was refused.

So the amendments were rejected.

§ 7.4 Although an automatic vote by yeas and nays may not be taken in the Committee of the Whole, a Member may make a point of order that a quorum is not present.

On Feb. 8, 1950,(2) during consideration of H.R. 2945, a bill to adjust postal rates, an objection was raised to a vote in the Committee of the Whole.

THE CHAIRMAN:(3) The question is on the amendment to the amendment.

The question was taken; and on a division (demanded by Mr. Hagen) there were—ayes 76, noes 21.

MR. [HAROLD C.] HAGEN [of Minnesota]: Mr. Chairman, I object to the vote on the ground that a quorum is not present.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. RANKIN: A quorum is not necessary to vote in the Committee of the Whole and a vote in the Committee of the Whole cannot be forced by a point of no quorum.

THE CHAIRMAN: The Chair will state to the gentleman from Mississippi that the rules require a quorum of a hundred in the Committee of the Whole.

MR. RANKIN: But the gentleman objected to the vote on the ground there was no quorum present.

MR. HAGEN: There was not a quorum present as disclosed by the announcement of the vote.

MR. RANKIN: It is all right to make a point of no quorum; that is one thing; but to object to the vote on the ground that a quorum is not present is something else.

THE CHAIRMAN: The Chair will count. [After counting.] One hundred and sixty-six Members are present, a quorum.

So the amendment was agreed to.

§ 7.5 Although a point of order that a quorum is not present is in order in the Committee of the Whole, it does not precipitate an automatic vote by yeas and nays, notwithstanding the fact that it was raised immediately after a vote on which less than a quorum voted.

See the proceedings of Aug. 21, 1950,(4) during consideration in the Committee of the Whole of H.R. 9313, a bill to amend the Agricultural Act of 1949.(5)

§ 7.6 In a statement preceding introduction of the electronic voting system, the Speaker announced a revised schedule of the electric

---

2. 96 CONG. REC. 1678, 1679, 81st Cong. 2d Sess.
3. Chet Holifield (Calif.).
4. 96 CONG. REC. 12960, 12961, 81st Cong. 2d Sess.
5. See § 16.2, infra.

bell and light signals, including a provision for votes in the Committee of the Whole.

On Jan. 15, 1973,(6) Speaker Carl Albert, of Oklahoma, announced the revised schedule of legislative electric bell and light signals.

> The Chair has directed that the bell and light system be utilized in the following manner:
>
> One bell indicates a teller vote, taken in accordance with clause 5, Rule I (Members indicate their preference by walking up the center aisle and being counted by Members who are named as tellers by the Chair. This is not a recorded vote).
>
> Two bells indicate an electronically recorded vote, either demanded under the Constitution by one-fifth of those present (in the House) or by one-fifth of a quorum under clause 5, Rule I (either in the House or in Committee of the Whole). Two bells may also indicate a recorded vote under clause 5 Rule I whenever Members are to record their votes by depositing ballot cards in the "aye" or "no" boxes. *The two bells will be repeated five minutes after the first ring* to give Members a second notice of the vote in progress.
>
> Two bells, a brief pause, followed by two bells indicates a yea and nay vote taken under the provisions of Rule XV, clause 1, by a call of the roll. *The bells will be sounded again when the Clerk reaches the "R's" in the first call of the roll.*
>
> Three bells indicate a quorum call, either by means of the electronic system (Rule XV, clauses 2 and 5) or by means of tellers (Rule XV, clause 2(b)). *The bells will be repeated five minutes after the first ring* to give Members a second notice of the quorum call in progress.
>
> Four bells indicate an adjournment of the House.
>
> Five bells indicate a recess of the House.
>
> Six bells indicate a civil defense warning.

Counting Members

§ 7.7 Where a point of order that a quorum is not present in the Committee of the Whole is made, a motion that the Committee rise is privileged. In the event that the motion is defeated, but by a vote which fails to indicate the presence of a quorum, the Chair may count those present in the Chamber who failed to vote; if those, together with those who did vote, constitute a quorum, the Chair so announces and the Committee proceeds with its business.

On Jan. 10, 1931,(7) the Chairman, John Q. Tilson, of Connecticut, in order to make a quorum, counted Members he observed not voting.

---

6. 119 Cong. Rec. 1055–57, 93d Cong. 1st Sess.

7. 74 Cong. Rec. 1946, 71st Cong. 3d Sess.

Mr. [Tilman B.] Parks [of Arkansas]: Mr. Chairman, I make a point of order of no quorum.

The Chairman: The gentleman from Arkansas [Mr. Parks] makes a point of order that there is no quorum present.

Mr. [William H.] Stafford [of Wisconsin]: Mr. Chairman, I move that the committee do now rise.

The Chairman: The gentleman from Wisconsin [Mr. Stafford] moves that the Committee do now rise.

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. Stafford: Mr. Chairman, I ask for tellers on the vote.

Tellers were ordered and the gentleman from Wisconsin [Mr. Stafford] and the gentleman from Arkansas [Mr. Parks] were appointed tellers.

The committee again divided, and the tellers reported that there were—ayes 2 and noes 87.

So the motion to rise was rejected.

The Chairman: The Chair will count. [After counting.] The Chair has been able to count over 20 Members in the Chamber who did not pass between the tellers. A quorum is present.

Mr. Parks: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Parks: On the report of the tellers there were 87 in the negative and 2 in the affirmative. Is that correct?

The Chairman: That is correct.

Mr. Parks: Does the Chair announce that that number constitutes a quorum?

The Chairman: It is not a quorum, but the Chair counted more than 20 Members who did not pass between the tellers. There are more than 100 Members present in the Chamber at this moment by count of the Chair. A quorum is present, and the gentleman from Mississippi is recognized.

§ 7.8 After the Chairman of the Committee of the Whole announced that a quorum was not present, a quorum was established on a teller vote rejecting a motion that the Committee rise.

On Feb. 28, 1945,(8) during consideration of H.R. 2374, the first defense appropriation bill of 1945, a quorum was established on a teller vote.

Mr. [Francis H.] Case of South Dakota: Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman:(9) The Chair will count. [After counting.] Fifty-eight Members are present, not a quorum.

Mr. [Clarence] Cannon of Missouri: Mr. Chairman, I move that the Committee do now rise.

The Chairman: The question is on the motion offered by the gentleman from Missouri.

The question was taken; and on a division (demanded by Mr. Cannon of Missouri) there were—ayes 27, noes 52.

Mr. Cannon of Missouri: Mr. Chairman, I demand tellers.

---

8. 91 Cong. Rec. 1576, 1577, 79th Cong. 1st Sess.

9. John J. Sparkman (Ala.).

Tellers were ordered, and the Chairman appointed as tellers Mr. Cannon of Missouri and Mr. Taber.

The Committee again divided; and the tellers reported that there were—ayes 57, noes 61.

So the motion was rejected.

The Chairman: A quorum is present. The gentleman from New York is recognized.

§ 7.9 Parliamentarian's Note: The Chair's count of a quorum is not subject to verification or appeal, and in recent practice, the Chair has refused to recognize a demand for tellers to verify his count of a quorum.

On May 20, 1949,(10) during consideration of H.R. 4591, providing for pay, allowances, and physical disability retirement for members of the armed forces, the Chair(11) refused tellers.

Mr. [Frank B.] Keefe [of Wisconsin]: Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman: The Chair will count. [After counting.] One hundred and five Members are present, a quorum.

Mr. [Carl] Vinson [of Georgia]: Mr. Chairman, I demand tellers.

The Chairman: The gentleman from Georgia has demanded tellers. The gentleman from Wisconsin made the point of order that a quorum was not present. The Chair counted 105 Members present. At this time there is no question before the House on which tellers can be ordered.

7.10 The Chair kept a constant count of the Members present in a Committee of the Whole to forestall counting due to points of no quorum and his count was not subject to challenge by a demand for tellers thereon.

On May 4, 1933,(12) during consideration of H.R. 5390, a deficiency appropriation bill, Chairman Sam D. McReynolds, of Tennessee, kept a constant count of Members.

Mr. [T. Jeff] Busby [of Mississippi]: Mr. Chairman, I make the point of order that there is not a quorum present. I think this is going to be a good speech.

The Chairman: The Chair will count. [After counting.] One hundred and ten gentlemen present, a quorum.

Mr. Busby: Mr. Chairman——

The Chairman: The Chair has kept the House counted with a view to being able to state how many gentlemen are in the Chamber.

Mr. Busby: Mr. Chairman, I have some rights in this matter, and they are not to be dealt with in this sort of way.

Mr. [Edward W.] Goss [of Con-

---

10. 95 Cong. Rec. 6556, 81st Cong. 1st Sess. See also 8 Cannon's Precedents §§ 3112–3118.

11. Oren Harris (Ark.).

12. 77 Cong. Rec. 2894, 73d Cong. 1st Sess.

necticut]: Mr. Chairman, I make the point of order that there can be no appeal from the decision of the Chair.

Mr. Busby: I ask for tellers on the count of the Chair.

The Chairman: The Chair will state for the information of the Committee that the Chair has been sitting here counting the House, and has kept a memorandum of the number. There were 92 gentlemen in the House when the point was made, and some 15 or 20 have come in from the cloakroom since.

Mr. Busby: Mr. Chairman, I ask for tellers on the count of the Chair.

The Chairman: It is only necessary for the Chair to announce the number present.

Mr. Busby: I ask for tellers on the count of the Chair. Does the Chair refuse to proceed?

Mr. Goss: Mr. Chairman, I make the point of order there can be no appeal from the decision of the Chair.

The Chairman: The point of order is sustained, and the gentleman from Minnesota will proceed.

The Motion to Rise

§ 7.11 In the Committee of the Whole a quorum is not required on a motion to rise.

On May 31, 1972,[13] during consideration of H.R. 13918, a bill to provide improved financing for the corporation for public broadcasting, Chairman Robert N. Giaimo, of Connecticut, ruled out of order a point of no quorum while a motion to rise was pending.

Mr. [Harley O.] Staggers [of West Virginia]: Mr. Chairman, I move that the Committee do now rise.

Mr. [H. R.] Gross [of Iowa]: Mr. Chairman, on that motion I demand tellers.

The Chairman: The gentleman from Iowa is demanding tellers on the motion that the Committee do now rise?

Mr. Gross: That is correct, Mr. Chairman.

The Chairman: The Chair will state to the gentleman that the Chair has not yet put the motion.

The question is on the motion offered by the gentleman from West Virginia that the Committee do now rise.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. Gross: Mr. Chairman, on that I demand tellers.

Tellers were refused.

Mr. Gross: Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman: The Chair will advise the gentleman from Iowa that a quorum is not needed upon the motion that the Committee do now rise.

The motion was agreed to.

§ 7.12 Pending the Chair's count of a quorum, a motion that the Committee of the Whole rise is in order because that motion does not require a quorum for adoption.

---

13. 118 Cong. Rec. 19353, 92d Cong. 2d Sess.

On June 4, 1948,(14) the Chairman, W. Sterling Cole, of New York, stated that a motion that the Committee rise does not require a quorum.(15)

Mr. [Harold D.] Cooley [of North Carolina]: Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman: The Chair will count.

Mr. [John] Taber [of New York]: Mr. Chairman, I move that the Committee rise.

The Chairman: The question is on the motion offered by the gentleman from New York.

Mr. Taber: Mr. Chairman, on that I demand tellers.

Mr. Cooley: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Cooley: Is the motion of the gentleman from New York in order pending the determination as regards the presence of a quorum?

The Chairman: The gentleman's motion is in order. A quorum is not necessary upon a motion that the Committee rise.

Tellers were ordered, and the Chairman appointed as tellers Mr. Taber and Mr. Cannon.

The Committee divided; and the tellers reported that there were—aye 1, noes 64.

So the motion was rejected.

The Chairman: Evidently a quorum is not present.

The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

§ 7.13 Where a point of order is made that a quorum is not present in the Committee of the Whole and the Chair announces that a quorum is not present, a motion that the Committee rise is in order before the Chair directs the Clerk to call the roll as provided in Rule XXIII clause 2.(16)

Instance where a quorum was established (on a teller vote) on the vote by which the Committee of the Whole rejected a motion to rise and the Committee then continued its business.

On May 26, 1966,(17) during consideration of H.R. 13712, the fair labor standards amendments of 1966, the Committee of the Whole resumed business after a teller vote.(1)

Mr. [Leslie C.] Arends [of Illinois]:

---

14. 94 Cong. Rec. 7178, 80th Cong. 2d Sess.

15. See also 80 Cong. Rec. 3459, 74th Cong. 2d Sess., Mar. 9, 1936.

16. See *House Rules and Manual* § 863 (1979).

17. 112 Cong. Rec. 11621, 89th Cong. 2d Sess.

1. See also 74 Cong. Rec. 886, 71st Cong. 3d Sess., Dec. 16, 1930, for another illustration of this principle.

Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman:(2) The Chair will count. [After counting.] Sixty-seven Members are present, not a quorum.

Mr. [Carl] Albert [of Oklahoma]: Mr. Chairman, I move that the Committee do now rise. On that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Albert and Mr. Arends.

The Committee divided, and the tellers reported that there were—ayes 3, noes 108.

So the motion was rejected.

The Chairman: A quorum is present.

The gentleman from Illinois [Mr. Collier] is recognized.

Consequences of Refusal to Rise

§ 7.14 Where a Committee of the Whole finds itself without a quorum and on motion refuses to rise, the Chair directs the Clerk to call the roll under Rule XXIII clause 2.(3)

On May 3, 1933,(4) during consideration of H.R. 5390, the third deficiency appropriation bill, the Chairman, Sam D. McReynolds, of Tennessee, directed the Clerk to call the roll.

The Chairman: The Chair will count only Members. The Chair will count. [After counting.] One hundred and one Members present, a quorum. . . .

Mr. [William A.] Ayres of Kansas: Mr. Chairman, I yield 15 minutes to the gentleman from Ohio [Mr. Truax]. . . .

Mr. [T. Jeff] Busby [of Mississippi]: Mr. Chairman, a quorum evidently is not present. I make the point of order that a quorum is not present. We should not be proceeding with a handful of Members. I am going to insist that a quorum remain present.

The Chairman: The Chair will count. [After counting.] Sixty-eight Members are present; not a quorum.

Mr. Ayers of Kansas: Mr. Chairman, I move that the Committee do now rise.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. [Joseph W.] Byrns [of Tennessee]: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed Mr. Ayres of Kansas and Mr. Busby to act as tellers.

The Committee divided; and the tellers reported there were ayes 1 and noes 76.

So the motion was rejected.

The Chairman: Evidently there is not a quorum present. The Clerk will call the roll.

Mr. Busby: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Busby: Is the roll call automatic?

---

2. Charles M. Price (Ill.).
3. See *House Rules and Manual* § 863 (1979).
4. 77 Cong. Rec. 2834, 73d Cong. 1st Sess.

The Chairman: There is no automatic roll call.

Mr. Busby: I understand no motion has been made that there be a call of the House.

The Chairman: The gentleman from Mississippi [Mr. Busby] suggested that there was not a quorum present. No quorum is present. The Committee has refused to rise. The Clerk will call the roll.

Mr. Busby: Mr. Chairman, I make the point of order that the roll call is not in order, because there is no authority for a roll call in Committee of the Whole.

The Chairman: The Chair overrules the point of order. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Proceedings When Committee of the Whole Rises

§ 7.15 Where the Committee of the Whole rises and the Chairman thereof reports to the House that, pursuant to Rule XXIII clause 2,(5) he caused the roll to be called in Committee to establish the presence of a quorum, the House automatically resolves back into Committee.

On Apr. 6, 1967,(6) the House, after receiving a report from the Chairman of the Committee of the Whole, resolved itself back into the Committee.(7)

Mr. [Wayne L.] Hays [of Ohio]: Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman:(8) The Chair will count. [After counting.] A quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Dent, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 2512, and finding itself without a quorum, he had directed the roll to be called, when 376 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

§ 7.16 The Speaker does not conduct any business, even the reception of a message, while he occupies the chair to receive the report of the Chairman of the Committee of the Whole pursuant to Rule XXIII clause 2.(9)

---

5. See *House Rules and Manual* § 863 (1979).
6. 113 Cong. Rec. 8600, 90th Cong. 1st Sess.
7. See also 115 Cong. Rec. 9705, 91st Cong. 1st Sess., Apr. 21, 1969, for another illustration of this principle.
8. John H. Dent (Pa.).
9. See *House Rules and Manual* § 863 (1979).

On Apr. 21, 1969,(10) Speaker John W. McCormack, of Massachusetts, conducted no business other than to receive the report of the Chairman of the Committee of the Whole, when the Committee rose following a call of the Committee (under Rule XV clause 2). Immediately after the Committee resumed its sitting, it rose informally to permit the Speaker on behalf of the House to receive a message.

> MR. [FRANK E.] EVANS of Colorado: Mr. Chairman, I make the point of order that a quorum is not present.
>
> THE CHAIRMAN:(11) The Chair will count.
>
> Forty Members are present, not a quorum. The Clerk will call the roll.
>
> The Clerk called the roll, and the following Members failed to answer to their names: . . .
>
> Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 541, and finding itself without a quorum, he had directed the roll to be called, when 325 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.
>
> The Committee resumed its sitting.
>
> THE CHAIRMAN: The Committee will rise informally in order that the House may receive a message.
>
> MESSAGE FROM THE PRESIDENT
>
> The Speaker assumed the chair.
>
> THE SPEAKER: The Chair will receive a message.
>
> A message in writing from the President of the United States was communicated to the House by Mr. Geisler, one of his secretaries.
>
> THE SPEAKER: The Committee will resume its sitting.

§ 7.17 The Speaker pro tempore, having received the report of the Chairman of the Committee of the Whole that a quorum of the Committee appeared on a call of the roll under Rule XXIII clause 2,(12) immediately directs the Committee to resume its sitting and does not entertain points of no quorum.

On Aug. 2, 1967,(13) the Speaker pro tempore(14) refused to entertain a point of no quorum(1) under the following circumstances:

---

10. 115 CONG. REC. 9705, 91st Cong. 1st Sess.
11. Charles M. Price (Ill.).
12. See *House Rules and Manual* § 863 (1979).
13. 113 CONG. REC. 21095, 90th Cong. 1st Sess.
14. Carl Albert (Okla.).
1. But see 6 Cannon's Precedents §§ 666, 667, in which points of no quorum were permitted following a rise of the Committee but before the Chairmen reported to the House. Those cases, however, are distinguishable

Mr. [Joe D.] Waggonner [Jr., of Louisiana]: Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman:(2) The Chair will count.

Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Albert) having resumed the chair, Mr. Rostenkowski, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 5037, and finding itself without a quorum, he had directed the roll to be called, when 388 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

Mr. Waggonner: Mr. Speaker——

The Speaker Pro Tempore: For what purpose does the gentleman from Louisiana rise?

Mr. Waggonner: Mr. Speaker, I make the point of order that a quorum is not present.

The Speaker Pro Tempore: That point of order is out of order. The Chair has just announced a quorum.

The Committee resumed its sitting.

§ 7.18 Where the Committee of the Whole resumed its sitting upon the establishment of a quorum, the pending question was the ordering of tellers which were demanded immediately prior to the point of no quorum.

On Mar. 23, 1970,(3) the Committee of the Whole resumed its sitting after the Chairman reported to the House that a quorum had appeared. When the Committee resumed its sitting, the pending business, the ordering of tellers, was considered.

The Chairman:(4) The question is on the motion [to amend H.R. 15728, to permit the President to loan one submarine to Pakistan] offered by the gentleman from New York (Mr. Koch).

The question was taken; and on a division (demanded by Mr. Koch), there were—ayes 10, noes 50.

Mr. [Edward I.] Koch: Mr. Chairman, I demand tellers.

Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman: The Chair will count.

Evidently a quorum is not present. The Clerk will call the roll. . . .

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Price of

---

from this precedent because in both instances the Committees had completed consideration of bills and the Chairmen had been instructed to report the Committee's conclusions.

2. Daniel D. Rostenkowski (Ill.).

3. 116 Cong. Rec. 8562, 8563, 91st Cong. 2d Sess.

4. William J. Bryan Dorn (S.C.).

Illinois) having resumed the chair, Mr. Dorn, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 15728, and finding itself without a quorum, he had directed the roll to be called, when 329 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. [L. Mendel] Rivers [of South Carolina]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman from South Carolina will state his parliamentary inquiry.

Mr. Rivers: Is the first order of business the ordering of tellers?

The Chairman: The gentleman is correct. When the point of order was made that a quorum was not present, the gentleman from New York (Mr. Koch) had demanded tellers. The question before the Committee is on the question of ordering tellers.

Tellers were refused.

So the motion was rejected.

Point of No Quorum as Related to the Demand for Tellers

§ 7.19 After a point of no quorum was made, the Chairman of the Committee of the Whole indicated that he would not recognize a demand for a teller vote unless the point of order was withdrawn or a quorum established.

On Aug. 21, 1950,(5) during consideration of H.R. 9313, a bill to amend the Agricultural Act of 1949, a demand for a teller vote was not entertained.

The Chairman:(6) The question is on the amendment offered by the gentleman from Georgia [Mr. Davis].

The question was taken; and on a division (demanded by Mr. Davis of Georgia) there were ayes 21, noes 28.

Mr. [James C.] Davis of Georgia: Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman: The Chair will count.

Mr. Davis of Georgia: Mr. Chairman, I demand tellers.

The Chairman: The gentleman withdraws his point of order that a quorum is not present?

Mr. Davis of Georgia: I do not withdraw it. A parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Davis of Georgia: Was my point of order that a quorum is not present in order?

The Chairman: The gentleman can make the point of order that a quorum is not present.

Mr. Davis of Georgia: Mr. Chairman, I make that point of order, then.

The Chairman: The Chair will count.

Mr. Davis of Georgia: Mr. Chairman, a parliamentary inquiry.

---

5. 96 Cong. Rec. 12960, 12961, 81st Cong. 2d Sess.
6. Carl T. Durham (N.C.).

The Chairman: The gentleman will state it.

Mr. Davis of Georgia: Mr. Chairman, if I insist on the point of order, will I then have an opportunity to have a roll-call vote on this question?

The Chairman: Not in Committee of the Whole, no.

Mr. Davis of Georgia: Mr. Chairman, another parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Davis of Georgia: Mr. Chairman, if I withdraw the point of order and ask for tellers, can I then obtain tellers if a sufficient number rises?

The Chairman: The gentleman is correct. . . .

Mr. Davis of Georgia: Mr. Chairman, a further parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Davis of Georgia: Can the motion for tellers be made after a quorum is present?

The Chairman: Yes.

§ 7.20 Where a Member, following a vote on an amendment, demands tellers and then immediately thereafter makes a point of order that a quorum is not present, the Chairman of the Committee of the Whole orders the Clerk to call the roll to establish Members' presence.

On Mar. 23, 1970,[7] Chairman W. J. Bryan Dorn, of South Carolina, ordered the Clerk to call the roll because a point of no quorum supersedes a demand for tellers.

The Chairman: The question is on the motion [to amend H.R. 15728, to permit the President to loan one submarine to Pakistan] offered by the gentleman from New York (Mr. Koch).

The question was taken; and on a division (demanded by Mr. Koch), were—ayes 10, noes 50.

Mr. [Edward I.] Koch: Mr. Chairman, I demand tellers.

Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman: The Chair will count.

Evidently a quorum is not present. The Clerk will call the roll.

Mr. [F. Edward] Hébert [of Louisiana]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Hébert: Mr. Chairman, is it in order to call for a quorum when a call for a teller vote is asked for and should be in progress at that moment—you cannot interrupt a vote.

The Chairman: The Chair will state that the gentleman from New York made the point that a quorum was not present.

Mr. Hébert: No, no—the Record will show that he asked for a teller vote and then asked for a quorum.

The Chairman: It is the understanding of the Chair that the gentleman asked for a teller vote and then made the point of order that a quorum was not present.

Mr. Hébert: That is it—when he

---

[7] 116 Cong. Rec. 8562, 8563, 91st Cong. 2d Sess.

asked for a teller vote, he asked for a vote to be taken and that vote comes automatically. Having made that motion, he cannot get the other.

THE CHAIRMAN: The Chair will advise the distinguished gentleman from Louisiana that the Committee cannot do business without a quorum, and since it has been established a quorum is not present, the Chair has directed the Clerk to call the roll.

The Clerk will call the roll.

§ 8. Motions During the Call—To Adjourn

This section discusses the motion to adjourn only as it relates to quorums and calls of the House.(8) Article I, section 5 of the Constitution(9) provides that ". . . a Majority of each [House] shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day. . . ."

The rule which authorizes calls of the House on motion(10) does not mention adjournment. The rule which authorizes automatic votes by the yeas and nays,(11) however, provides that in the absence of a quorum "unless the House shall adjourn," there shall be a call of the House. Furthermore, the Speaker may entertain a motion to adjourn after the call has been completed, if the motion has been seconded by a majority of those present, to be ascertained by actual count of the Speaker.(12) If the House adjourns, all proceedings under Rule XV clause 4,(13) are vacated; this provision has been interpreted to mean voiding the vote taken by the yeas and nays, but not deleting the record of proceedings from the Record and Journal.(14)

Although a quorum is not required on a motion to adjourn,(15) it is required on a resolution providing for adjournment *sine die*(16) (but not on a motion to adjourn which implements such a resolution).(17)

An affirmative vote to adjourn by less than a quorum does not invoke an automatic roll call,(18) but the lack of a quorum on a

---

8. See Ch. 40, infra, for discussion of adjournment generally.
9. *House Rules and Manual* §§ 52-57 (1979).
10. Rule XV clause 2(a), *House Rules and Manual* § 768 (1979).
11. Rule XV clause 4, *House Rules and Manual* § 773 (1979).
12. *Id.* See also § 8.1, infra.
13. *House Rules and Manual* § 773 (1979).
14. § 2.22, supra.
15. §§ 8.7, 8.8, infra.
16. § 8.9, infra.
17. § 8.10, infra.
18. § 8.11, infra.

negative vote on adjournment invokes a call.(19)

The motion to adjourn is highly privileged. In the absence of a quorum, no motion is in order but a motion for a call of the House or a motion to adjourn.(20) Because the motion to adjourn takes precedence over a motion for a call of the House, the vote on adjournment is taken before the call of the House even when the motion for the call was offered but not finally agreed to prior to the motion to adjourn.(21) The motion to adjourn may even be offered when the House is dividing on a motion for a call of the House(22) and takes precedence over a motion to dispense with further proceedings under the call.(1)

Need for Second

§ 8.1 A motion to adjourn, after an automatic roll call has disclosed the absence of a quorum, must be seconded by a majority of those present to be ascertained by actual count of the Chair by a division vote prior to a vote on the motion to adjourn itself.

On Oct. 10, 1940,(2) during consideration of a veto message on H.R. 7179, a bill to provide for the naturalization of Louis D. Friedman, Speaker William B. Bankhead, of Alabama, entertained a motion to adjourn.(3)

> THE SPEAKER: . . . The question is on the motion of the gentleman from New York [Mr. Dickstein] that the bill and the message together with the accompanying papers be referred to the Committee on Immigration and Naturalization.
>
> The question was taken; and on a division (demanded by Mr. Dickstein) there were—ayes 17, noes 62.
>
> MR. [PEHR G.] HOLMES [of Massachusetts]: Mr. Speaker, I object to the vote on the ground a quorum is not present.
>
> MR. [SAMUEL] DICKSTEIN: Mr. Speaker, I was on my feet. I object to the vote on the ground a quorum is not present.
>
> THE SPEAKER: The gentleman from New York [Mr. Dickstein] objects to the vote on the ground there is not a

---

19. § 8.13, infra.
20. § 8.14, infra.
21. §§ 8.14, 8.15, infra.
22. 8 Cannon's Precedents §2644.
1. 8 Cannon's Precedents §2643.
2. 86 CONG. REC. 13534, 13535, 76th Cong. 3d Sess.
3. Seconding by a majority is required by Rule XV clause 4, *House Rules and Manual* § 773 (1979); there is no specific seconding requirement for calls of the House on motions which are authorized by Rule XV clause 2(a), *House Rules and Manual* § 768 (1979), but such motions must be adopted by a majority, at least 15 voting in the affirmative.

quorum present. The gentleman from Massachusetts [Mr. Holmes] objects to the vote on the same ground. Evidently a quorum is not present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 108, nays 105, not voting 216, as follows: . . .

Mr. [John W.] McCormack [of Massachusetts]: Mr. Speaker——

The Speaker: The gentleman from Massachusetts.

Mr. McCormack: Mr. Speaker, may I inquire the result of the roll call just taken?

The Speaker: On this roll call 213 Members have answered—108 yeas and 105 nays. This is 3 short of a quorum.

ADJOURNMENT

Mr. McCormack: Mr. Speaker, in view of the situation that exists, which is obvious to all of us, and of necessity, I move that the House do now adjourn.

Mr. [John C.] Schafer of Wisconsin: Mr. Speaker, I demand a second to the motion.

The Speaker: Under the rule the demand for a second is in order. The question is on ordering a second.

The question was taken; and there were—ayes 144, noes 3.

So a second was ordered.

Mr. Dickstein: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Dickstein: The vote on the motion to refer the bill to the committee being yeas 108, nays 105, what will happen to the motion if the House adjourns?

The Speaker: The motion will be the continuing business before the House when it convenes on Monday.

The question is on the motion to adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 35 minutes p.m.) the House, pursuant to its previous order, adjourned until Monday, October 14, 1940, at 12 o'clock noon.

Effect of Adjournment on Pending Business

§ 8.2 Where a quorum fails to respond on an automatic roll call on a pending resolution and the House adjourns, the unfinished business when the House again convenes is the vote on the resolution; and the Speaker puts the question de novo.

On Oct. 19, 1966,(4) Speaker John W. McCormack, of Massachusetts, after the opening prayer, approval of the Journal, and reading of messages from the President and Senate, proceeded immediately to the vote on a resolution which was pending the previous day when the House adjourned because a quorum had failed to respond on

---

4. 112 Cong. Rec. 27640, 27641, 89th Cong. 2d Sess.

an automatic vote by the yeas and nays.

ANNOUNCEMENT BY THE SPEAKER—DISPOSING OF PENDING BUSINESS

THE SPEAKER: The Chair will receive unanimous-consent requests, after the disposition of pending business.

The unfinished business is the vote on agreeing to the resolution (H. Res. 1062) certifying the report of the Committee on Un-American Activities as to the failures of Jeremiah Stamler to give testimony before a duly authorized subcommittee of said committee.

The Clerk read the title of the resolution.

CALL OF THE HOUSE

MR. [DON] EDWARDS of California: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The gentleman from California makes the point of order that a straight quorum is not present, or does the gentleman make the point of order on the resolution?

MR. EDWARDS of California: Mr. Speaker, I make the point of order that a straight quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this rollcall 280 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROCEEDINGS AGAINST JEREMIAH STAMLER

THE SPEAKER: The unfinished business is the vote on agreeing to the resolution (H. Res. 1062) certifying the report of the Committee on Un-American Activities as to the failures of Jeremiah Stamler to give testimony before a duly authorized subcommittee of said committee.

The Clerk read the title of the resolution.

THE SPEAKER: The question is on the resolution.

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 92, noes 34.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 219, nays 69, not voting 144, as follows: . . .

So the resolution was agreed to.

Calls of the House After Voting on Adjournment

§ 8.3 A quorum not being present, a motion by the Majority Leader to adjourn was defeated and a call of the House was ordered;

the Speaker directed his name to be called to make a quorum.

On Nov. 13, 1943,(5) a call of the House was ordered after defeat of the motion to adjourn offered by the Majority Leader, John W. McCormack, of Massachusetts.(6)

> MR. [PETE] JARMAN [of Alabama]: Mr. Speaker, I think we ought to have a quorum present, and I make the point of order that there is no quorum present.
>
> THE SPEAKER PRO TEMPORE: The gentleman from Alabama makes the point of order that there is no quorum present. The Chair will count.
>
> MR. JARMAN (interrupting the count): Mr. Speaker, I withdraw the point of order.
>
> MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Speaker, I renew the point of order and make the point that there is no quorum present.
>
> THE SPEAKER:(7) The gentleman from Wisconsin makes the point of order. The Chair will count. [After counting.] Sixty-eight Members present, not a quorum.
>
> MR. MCCORMACK: Mr. Speaker, I move that the House do now adjourn.
>
> THE SPEAKER: The question is on the motion of the gentleman from Massachusetts that the House do now adjourn.
>
> The question was taken; and on a division (demanded by Mr. Mundt) there were—ayes 25, noes 41.
>
> So the motion was rejected.
>
> MR. MCCORMACK: Mr. Speaker, I move a call of the House.
>
> The motion was agreed to.
>
> The Clerk called the roll and the following Members failed to answer to their names: . . .
>
> THE SPEAKER: The Clerk will call my name.
>
> The Clerk called the name of Mr. Rayburn and he answered "present."
>
> THE SPEAKER: On this call 217 members have answered to their names. A quorum is present.
>
> By unanimous consent, further proceedings under the call were dispensed with.

§ 8.4 A yea and nay negative vote on a motion to adjourn having disclosed the presence of a quorum, the Majority Leader withdrew his pending motion for a call of the House.

On June 4, 1963,(8) the Majority Leader, Carl Albert, of Oklahoma, withdrew his pending motion to adjourn.

> MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, I make the point of order that a quorum is not present.
>
> THE SPEAKER:(9) Evidently a quorum is not present.

---

5. 89 CONG. REC. 9478, 78th Cong. 1st Sess.
6. See also 105 CONG. REC. 3432, 86th Cong. 1st Sess., Mar. 5, 1959.
7. Sam Rayburn (Tex.).
8. 109 CONG. REC. 10155, 10156, 88th Cong. 1st Sess.
9. John W. McCormack (Mass.).

MR. ALBERT: Mr. Speaker, I move a call of the House.

MR. [JAMES] ROOSEVELT [of California]: Mr. Speaker——

THE SPEAKER: For what purpose does the gentleman from California rise?

MR. ROOSEVELT: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The question is on the motion to adjourn.

The question was taken, and on a division (demanded by Mr. Williams) there were—ayes 98, noes 105.

MR. WILLIAMS: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 53, nays 277, not voting 103, as follows: . . .

MR. ALBERT: I withdraw my motion for a call of the House, Mr. Speaker.

THE SPEAKER: The motion is withdrawn.

§ 8.5 A point of no quorum having been made and a motion to adjourn having been defeated on a division vote, a call of the House was moved and agreed to.

On Mar. 5, 1959,(10) a call of the House was moved and agreed to.(11)

THE SPEAKER PRO TEMPORE:(12) Under previous order of the House, the gentleman from Massachusetts [Mr. O'Neill] is recognized for 30 minutes.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, a point of order. The gentleman from Massachusetts has indicated to me that he desires to speak on the subject of an election contest. That being a matter upon which the entire membership of the House should be informed, I make the point of order that a quorum is not present.(13)

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, will the gentleman withhold that for a moment?

MR. WILLIAMS: I withhold the point of order.

MR. HAYS: Mr. Speaker, I would like to say to the gentleman if this is going to be the practice there will be no more special orders by the gentleman or any of his friends.

MR. WILLIAMS: Mr. Speaker, I renew the point of order.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, if the gentleman insists on his point of order I shall feel

---

10. 105 CONG. REC. 3432, 86th Cong. 1st Sess.

11. See also, for example, 89 CONG. REC. 9478, 78th Cong. 1st Sess., Nov. 13, 1943.

12. Thomas J. Lane (Mass.).

13. See supplements to this edition for discussion of more recent provisions effective in the 93d Congress on Apr. 9, 1974, to the effect that after the presence of a quorum has been once ascertained on any day, a point of order of no quorum may not be entertained during the period of the day when the Speaker recognizes Members to address the House under special orders, with no measure or matter then under consideration for disposition by the House. See also Rule XV clause 6(c)(3) [*House Rules and Manual* § 774c (1979)].

obliged to move to adjourn the House. Does the gentleman insist on his point of order?

MR. WILLIAMS: Mr. Speaker, I do not think this speech should be made without the membership of the House being present and I insist on the point of order.

MR. ALBERT: Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. Albert) there were ayes 6, noes 47.

So the motion was rejected.

CALL OF THE HOUSE

MR. ALBERT: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

Effect on Questions of Privilege

§ 8.6 Where a Member objects to a negative vote on a motion to adjourn on the ground that a quorum is not present, the Chair will not entertain a question of privilege pending disposition of the point of no quorum.

On Apr. 15, 1970,(14) Speaker pro tempore Charles M. Price, of Illinois, refused to entertain a question of personal privilege where the House had just refused to adjourn and objection had been raised to that vote on the ground that a quorum was not present.

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Ohio.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

MR. HAYS: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. Justice Douglas has been on the Bench for a great many years, and he can wait for one more night. I have not had my dinner.

THE SPEAKER PRO TEMPORE: The Chair will count.

MR. HAYS: Mr. Speaker, I am willing to withhold my motion if the gentleman wants to ask permission to insert his remarks, but obviously all these speeches were written by the same author, and I do not think we ought to have to sit here and listen to them.

MR. [WILLIAM L.] SCOTT [of Virginia]: Mr. Speaker, if the gentleman will yield, my remarks will not take more than 10 minutes.

MR. HAYS: I have been hearing that for a long time now.

MR. [LOUIS C.] WYMAN [of New Hampshire]: Mr. Speaker, I rise to a point of special privilege.

THE SPEAKER PRO TEMPORE: There is a motion pending.

MR. HAYS: Mr. Speaker, I insist on the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from Ohio insists on the point of order.

Evidently a quorum is not present.

---

14. 116 CONG. REC. 11940, 11941, 91st Cong. 2d Sess.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 81, nays 75, not voting 274, as follows: . . .

So the motion was agreed to.

Matters Requiring a Quorum

§ 8.7 Motions to adjourn do not require a quorum for adoption.

On Dec. 30, 1970,(1) Speaker pro tempore Wilbur D. Mills, of Arkansas, made a ruling regarding a quorum on a motion to adjourn.(2)

MR. [W.C.] DANIEL of Virginia: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER PRO TEMPORE: The question is on the motion to adjourn.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker——

THE SPEAKER PRO TEMPORE: The Chair would request that the gentleman from Missouri permit the Chair to put the question.

The question was taken; and the Speaker pro tempore announced that the ayes had it. . . .

MR. [JOHN E.] HUNT [of New Jersey]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The Chair announced that the ayes had it.

MR. HUNT: Mr. Speaker, I was seeking recognition and I was on my feet.

THE SPEAKER PRO TEMPORE: The Chair will advise the gentleman from New Jersey that a quorum is not required in order to adjourn the House.

The House stands adjourned until 12 o'clock tomorrow.

§ 8.8 A quorum is not required to vote for adjournment and an objection to an affirmative vote on that ground is not entertained.

On May 6, 1950,(3) Speaker pro tempore John W. McCormack, of Massachusetts, refused to entertain an objection to a vote on a motion to adjourn.(4)

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I renew my motion that the House do now adjourn.

THE SPEAKER PRO TEMPORE: The question is on the motion.

---

1. 116 CONG. REC. 44190, 91st Cong. 2d Sess.
2. See also, for example, 109 CONG. REC. 24634, 88th Cong. 1st Sess., Dec. 14, 1963; 109 CONG. REC. 10674, 10675, 88th Cong. 1st Sess., June 11, 1963; and 87 CONG. REC. 4320, 77th Cong. 1st Sess., May 21, 1941.
3. 96 CONG. REC. 6568, 81st Cong. 2d Sess.
4. See also 95 CONG. REC. 10092, 81st Cong. 1st Sess., July 25, 1949.

The question was taken; and on a division (demanded by Mr. Rankin) there were—ayes 51, noes 44.

Mr. [Mike] Mansfield [of Montana]: Mr. Speaker, I object to the vote on the ground a quorum is not present.

Mr. Rankin: Mr. Speaker, a point of order. A quorum is not necessary on a motion to adjourn.

The Speaker Pro Tempore: The Chair cannot entertain that.

Mr. [Jere] Cooper [of Tennessee]: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 98, nays 170, not voting 162.

§ 8.9 A quorum is required on the vote agreeing to a resolution providing for the adjournment of the Congress sine die.

On July 16, 1932,(5) the Chair made a ruling regarding the need for a quorum for an adjournment *sine die*.

The Speaker Pro Tempore:(6) Will the House permit the Chair to make a statement? It requires a majority of this House to agree to a resolution providing for adjournment sine die, and we do not know yet when the Senate will send over that resolution. The Chair respectfully suggests to the gentleman, especially those who have made reservations to return to their homes to-night, that it might be well to remain until the concurrent resolution providing for adjournment is adopted. The Chair desires to make that statement, because our ranks are gradually being thinned, and we might find ourselves without a quorum.

§ 8.10 Pursuant to a concurrent resolution passed when a quorum was present, the House adjourned sine die in the absence of a quorum.

On Oct. 18, 1972,(7) House Concurrent Resolution 726 was passed.

Mr. [Thomas P.] O'Neill [Jr., of Massachusetts]: Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 726) and ask for its immediate consideration.

The Clerk read as follows:

H. Con. Res. 726

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Wednesday, October 18, 1972, and that when they adjourn on said day, they stand adjourned sine die.

The Speaker:(8) The question is on the concurrent resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. [James G.] O'Hara [of Michigan]: Mr. Speaker, I object to the vote on the ground that a quorum is not

---

5. 75 Cong. Rec. 15753, 72d Cong. 1st Sess.
6. John McDuffie (Ala.).
7. 118 Cong. Rec. 37061, 92d Cong. 2d Sess.
8. Carl Albert (Okla.).

present and make the point of order that a quorum is not present.

The Speaker: Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 239, nays 21, not voting 171, as follows: . . .

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Later that day,(9) the House adjourned *sine die*.

Call of the House

Mr. [John T.] Myers [of Indiana]: Mr. Speaker, I make the point of order that a quorum is not present.

The Speaker: The Chair will count. One hundred twelve Members are present, not a quorum.

Mr. O'Neill: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

Parliamentary Inquiries

Mr. [Wilbur D.] Mills of Arkansas: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Mills of Arkansas: Mr. Speaker, will the Speaker entertain a unanimous-consent request that the call of the roll be vacated.

The Speaker: The Speaker does not have that authority under the Constitution.

If there are any Members in the Chamber who have not answered and the Speaker can identify them, he will have them recorded. The Speaker does have that authority, but he does not know of any such Members.

Mr. O'Neill: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. O'Neill: Mr. Speaker, am I correct in assuming that when the House adjourns tonight it adjourns to meet on January 3, 1973, at 12 o'clock?

The Speaker: That is correct.

Adjournment Sine Die

Mr. O'Neill: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The Speaker: In accordance with the provisions of House Concurrent Resolution 726, the Chair declares the second session of the 92d Congress adjourned sine die.

Accordingly (at 8 o'clock and 47 minutes p.m.), Wednesday, October 18, 1972, the House adjourned sine die.

Automatic Vote by Yeas and Nays

§ 8.11 Parliamentarian's Note: A quorum is not required to adjourn the House; and an affirmative vote to adjourn by less than a quorum does not invoke an automatic roll call under Rule XV clause 4.(10)

---

9. 118 Cong. Rec. 37200, 92d Cong. 2d Sess.

10. See *House Rules and Manual* § 773 (1979).

On Dec. 14, 1963,(11) an automatic call of the House was not invoked following an affirmative vote to adjourn.(12)

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. Johansen) there were—ayes 77, noes 17.

Mr. [August E.] Johansen [of Michigan]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker:(13) The Chair will advise the gentleman that on a motion to adjourn, when the majority of Members present vote in favor of the motion, a quorum is not required.

The motion to adjourn was agreed to; accordingly (at 12 o'clock and 20 minutes p.m.) the House adjourned until Monday, December 16, 1963, at 12 o'clock noon.

§ 8.12 Parliamentarian's Note: It is not in order to demand an "automatic" roll call under Rule XV clause 4,(14) on a motion to adjourn, since the motion to adjourn from day to day may be agreed to by less than a quorum.

On Dec. 30, 1970,(15) Speaker pro tempore Wilbur D. Mills, of Arkansas, refused to entertain an objection to a vote on the ground that a quorum was not present.

Consequence of Point of No Quorum After Vote

§ 8.13 Although a quorum is not required to adjourn the House, a point of no quorum on a negative vote on adjournment, if sustained, precipitates a call of the House under Rule XV clause 4.(16)

On Sept. 22, 1965,(17) Speaker John W. McCormack, of Massachusetts, ordered a call of the House.(18)

Mr. [Leslie C.] Arends [of Illinois]: Mr. Speaker, I make the motion that the House do now adjourn.

The Speaker: The question is on

---

11. 109 Cong. Rec. 24634, 88th Cong. 1st Sess.

12. See also, for example, 116 Cong. Rec. 44190, 91st Cong. 2d Sess., Dec. 30, 1970; and 109 Cong. Rec. 10674, 10675, 88th Cong. 1st Sess., June 11, 1963.

13. John W. McCormack (Mass.).

14. See *House Rules and Manual* § 773 (1979).

15. 116 Cong. Rec. 44190, 91st Cong. 2d Sess. For the proceedings of the House on this date, see § 8.7, supra.

16. See *House Rules and Manual* § 773 (note) (1979).

17. 111 Cong. Rec. 24716, 24717, 89th Cong. 1st Sess.

18. See also, for example, 117 Cong. Rec. 38536, 38537, 92d Cong. 1st Sess., Nov. 1, 1971; 114 Cong. Rec. 16225, 16226, 90th Cong. 2d Sess., June 6, 1968; 109 Cong. Rec. 24217, 24218, 88th Cong. 1st Sess., Dec. 11, 1963; and 97 Cong. Rec. 6621, 82d Cong. 1st Sess., June 15, 1951.

the motion of the gentleman from Illinois.

The question was taken; and the Speaker announced that in his opinion the "noes" had it.

Mr. Arends: Mr. Speaker, I demand tellers.

Tellers were ordered; and the Speaker appointed as tellers Mr. Albert and Mr. Arends.

The House divided, and the tellers reported that there were—ayes 58, noes 104.

Mr. [Durward G.] Hall [of Missouri:] Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker (after counting): Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 90, nays 204, not voting 138, as follows: . . .

So the motion was rejected.

Precedence of Motion to Adjourn Over Motion for Call of House

§ 8.14 A motion to adjourn cannot ordinarily be offered while another Member having the floor for debate refuses to yield for that purpose, but if a point of order of no quorum is made and sustained during such debate, a motion to adjourn is in order and takes precedence over a motion for a call of the House.

On Apr. 24, 1956,(19) Mr. Carl Vinson, of Georgia, had the floor for debate when a point of order of no quorum was made. Speaker Sam Rayburn, of Texas, ruled that a motion to adjourn could not deprive Mr. Vinson of the floor before the point of order was sustained, but after announcing the lack of a quorum, entertained a motion to adjourn as preferential over a motion for a call of the House:

> Mr. [John Bell] Williams of Mississippi: Mr. Speaker, a point of order.
>
> The Speaker: The gentleman will state his point of order.
>
> Mr. Williams of Mississippi: Mr. Speaker, I make the point of order that a quorum is not present.
>
> Mr. [Sidney R.] Yates [of Illinois]: Mr. Speaker, I object to the point of order.
>
> Mr. Vinson: Will the gentleman not withhold that? I have only about 5 minutes.
>
> Mr. Williams of Mississippi: Mr. Speaker, I withdraw the point of order.
>
> Mr. [William M.] Colmer [of Mississippi]: Mr. Speaker, the gentleman is making a very sound statement here and I make the point of order that a quorum is not present.
>
> Mr. Yates: Mr. Speaker, may I be heard on the point of order?
>
> The Speaker: The point of order that a quorum is not present is not debatable.

---

19. 102 Cong. Rec. 6891, 84th Cong. 2d Sess.

Mr. Yates: Since the last point of order on a quorum there has been no further transaction of business, and it is obvious that the points of order being made are dilatory.

The Speaker: There were various unanimous-consent requests granted since the last call of the House. The Chair has been up against this question of whether there was a filibuster or whether there was not a great many times. This occupant of the Chair is very liberal with Members who want a quorum present or to have business transacted in the regular way. The Chair is not going to hold that this point of order is dilatory.

Mr. [Wayne L.] Hays of Ohio: Mr. Speaker, I move that the House do now adjourn.

The Speaker: If the gentleman from Georgia retains the floor, that motion is not in order.

Mr. Vinson: I retain it, Mr. Speaker. I am just moving around to get a little exercise.

The Speaker: Does the gentleman from Mississippi insist upon his point of no quorum?

Mr. Colmer: Mr. Speaker, I insist upon the point of no quorum.

The Speaker: The Chair will count. Evidently there is no quorum present.

Mr. [John W.] McCormack [of Massachusetts]: Mr. Speaker, I move a call of the House.

Mr. Hays of Ohio: Mr. Speaker, I move that the House do now adjourn.

The Speaker: The motion to adjourn is a privileged motion. The question is on the motion.

The motion was rejected.

The Speaker: The question is on the motion offered by the gentleman from Massachusetts.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

The Speaker: On this rollcall 298 Members have answered to their names, a quorum is present.

By unanimous consent, further proceedings under the call were dispensed with.

The Speaker: The gentleman from Georgia will proceed.

§ 8.15 The motion to adjourn takes precedence over a motion for a call of the House; and where a motion to adjourn is defeated, and the motion for a call of the House is then withdrawn, business may continue if there has been no finding or announcement of the absence of a quorum.

On June 12, 1963,(1) the Speaker pro tempore ruled that a motion to adjourn takes precedence over a motion for a call of the House.

Mr. [Frank J.] Becker [of New York]: Mr. Speaker, I make the point of order a quorum is not present.

Mr. [Donald C.] Bruce [of Indiana]: Mr. Speaker, I move a call of the House.

Mr. [Wayne L.] Hays [of Ohio]: Mr. Speaker, I move that the House do now adjourn.

---

1. 109 Cong. Rec. 10739, 10740, 88th Cong. 1st Sess.

THE SPEAKER PRO TEMPORE:(2) The question is on the motion that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. Bruce) there were—ayes 23, noes 34.

So the motion was rejected.

MR. [M.G.] SNYDER [of Kentucky]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: Does the gentleman yield for the purpose of making a parliamentary inquiry?

MR. [JOHN M.] ASHBROOK [of Ohio]: Certainly.

MR. SNYDER: The point of order has been made that there was no quorum present and the gentleman from Indiana moved a call of the House. Since the motion to adjourn was defeated, is not his motion in order?

MR. BRUCE: I withdraw the motion.

THE SPEAKER PRO TEMPORE: Let the Chair state that the motion to adjourn was made in the meantime, and no point of order has been made since.

Continuing Call After Quorum Fails to Appear on Motion to Adjourn

§ 8.16 The Speaker indicated that if a quorum failed to materialize on a yea and nay vote on a motion to adjourn decided in the negative, the House would proceed to establish a quorum under the call of the House under Rule XV clause 2(a),(3) which was in progress when the motion to adjourn was made.

On Oct. 14, 1969,(4) following a motion to adjourn offered during a call of the House on a motion on which less than a quorum appeared, after the roll call was completed, but before announcement of absence of a quorum, Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry regarding the procedure following a negative vote to adjourn. (See § 10.2, infra.)

Pending Point of No Quorum

§ 8.17 A motion to adjourn is in order pending a point of order that a quorum is not present.

For example, on Dec. 7, 1963,(5) the House adjourned while a point of order that a quorum was not present was pending.(6)

> MR. [WILLIAM K.] VAN PELT [of Wisconsin]: Mr. Speaker, I make the point of order that a quorum is not present.

---

2. W. Homer Thornberry (Tex.).
3. See *House Rules and Manual* § 768 (1979).
4. 115 CONG. REC. 30055, 91st Cong. 1st Sess.
5. 109 CONG. REC. 23752, 88th Cong. 1st Sess.
6. See also, for example, 106 CONG. REC. 16535, 86th Cong. 2d Sess., Aug. 16, 1960, and 95 CONG. REC. 12191, 81st Cong. 1st Sess., Aug. 24, 1949.

ADJOURNMENT

MR. [JOHN E.] MOSS [Jr., of California]: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 2 minutes p.m.) the House adjourned until Monday, December 9, 1963, at 12 o'clock noon.

When in Order

§ 8.18 The House adjourned pending the vote on agreeing to a conference report, the vote on adoption having been objected to on the ground that a quorum was not present.

On Dec. 14, 1971,[7] during consideration of the conference report on H.R. 11731, the Department of Defense appropriation measure, the House adjourned.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

THE SPEAKER:[8] The question is on the conference report.

The question was taken, and the Speaker announced that the ayes appeared to have it.

MR. [CHARLES M.] TEAGUE of California: Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

ADJOURNMENT

MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, December 15, 1971, at 11 o'clock a.m.

§ 8.19 A motion to adjourn is in order at any time after the conclusion of the second call of the roll if a quorum has not been established; announcement by the Chair that a quorum has failed to respond is not necessary before entertaining the motion to adjourn.

On Oct. 14, 1969,[9] during a call of the House while American military involvement in Vietnam was under debate, Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries about the quorum requirement for, and the timeliness of, a motion to adjourn.

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. FRASER: I would like to ask, if I may, where the matter stands now of the call of the House which was made

---

[7] 117 CONG. REC. 46888, 46894, 92d Cong. 1st Sess.

[8] Carl Albert (Okla.).

[9] 115 CONG. REC. 30055, 91st Cong. 1st Sess.

92-421 0 - 82 - 27 : QL 3

by the majority leader. As I understand it, there is not yet a quorum recorded at the desk.

THE SPEAKER: The gentleman is correct.

MR. FRASER: Now, Mr. Speaker, what are the options open to the House at this point?

THE SPEAKER: The Chair is patiently waiting to see. Regular order is the establishment of a quorum. If a quorum is not established, then a motion to adjourn would be in order.

MR. FRASER: Mr. Speaker, am I correct that if a quorum is not established, there are only two choices open to the House—either a motion to adjourn or a motion to instruct the Sergeant at Arms to produce the missing Members?

THE SPEAKER: The gentleman is correct. . . .

MR. [JAMES H.] QUILLEN [of Tennessee]: Mr. Speaker——

THE SPEAKER: For what purpose does the gentleman from Tennessee rise?

MR. QUILLEN: Mr. Speaker, due to the lack of a quorum, I move that the House do now adjourn.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, on that I ask for the yeas and nays.

MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from Louisiana will state his parliamentary inquiry.

MR. BOGGS: Mr. Speaker, does it require a quorum to adjourn?

THE SPEAKER: The Chair will state to the gentleman from Louisiana that it does not require a quorum. . . .

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from Oklahoma will state his parliamentary inquiry.

MR. ALBERT: Is it in order to move that the House adjourn on the ground that a quorum is not present until the Chair has announced the nonexistence of a quorum?

THE SPEAKER: The Chair will state that a motion to adjourn is in order any time after the conclusion of the second call if a quorum has not been established.

Parliamentarian's Note: See parliamentarian's note, § 4.4, supra, for similar precedent relating to quorum call by electronic device.

§ 8.20 One motion to adjourn having been offered and rejected at the expiration of 15 minutes during a call of the House by electronic device, another motion to adjourn is in order and takes precedence over a motion directing the Sergeant at Arms to arrest absentees.

On June 6, 1973,(10) during a discussion of impeachment powers, Speaker Carl Albert, of Oklahoma, ruled on the precedence of a motion to adjourn over a motion for a call of the House.

MR. [EARL F.] LANDGREBE [of Indiana]: Mr. Speaker, this is a very important matter being discussed. I do not believe there is a quorum in the

---

10. 119 CONG. REC. 4416, 4417, 93d Cong. 1st Sess.

House. I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE:[11] The Chair will count.

Sixty Members being present in the Chamber, a quorum is not present.

MR. [JOHN J.] MCFALL [of California]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond: . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, may we have the regular order?

THE SPEAKER: The regular order is the establishment of a quorum and the rule provides a minimum of 15 minutes for Members to respond. Clause 5 of rule XV[12] states that Members have "not less than 15 minutes to have their presence recorded."

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: Mr. Speaker, I move that the House do now adjourn.

MS. [BELLA S.] ABZUG [of New York]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 9, nays 143, present 1, not voting 279, as follows: . . .

So the motion to adjourn was rejected.

The result of the vote was amended as above recorded.

THE SPEAKER: The order of business is the establishment of a quorum. The House is still in the process of trying to establish a quorum, the motion to adjourn having been rejected. Are there further Members in the Chamber who desire to record their presence?

MOTION OFFERED BY MR. STRATTON

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Speaker, I move that the Sergeant at Arms be instructed to bring in the absent Members.

PARLIAMENTARY INQUIRY

MR. [PAUL N.] MCCLOSKEY [Jr., of California]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. MCCLOSKEY: Mr. Speaker, I rise in order that I may be recognized for a motion to adjourn.

MOTION OFFERED BY MR. MCCLOSKEY

MR. MCCLOSKEY: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The question is on the motion offered by the gentleman from California (Mr. McCloskey).

MR. STRATTON: Mr. Speaker, I have a motion pending.

THE SPEAKER: The Chair will state that the motion to adjourn offered by the gentleman from California (Mr. McCloskey) takes precedence over the motion offered by the gentleman from New York (Mr. Stratton).

ADJOURNMENT

The motion was agreed to; accordingly (at 9 o'clock and 38 minutes p.m.), the House adjourned until Thursday, June 7, 1973, at 12 o'clock noon.

---

[11] Romano L. Mazzoli (Ky.).

[12] See *House Rules and Manual* § 774b (1979).

Parliamentarian's Note: Because the Speaker had not announced the result of the call of the House at the time the motion to adjourn was offered, he announced that the call of the House was still open and in progress upon rejection of the adjournment motion, and that Members could record their presence although they had not been able to return to the floor during the 15-minute period. It was contended that the Speaker had no authority to entertain the motion to adjourn during the call of the House and prior to his announcement of the result of that call. But if this contention were valid, it would give the Speaker unlimited discretion to keep a quorum call open indefinitely by refusing to announce the result (where a quorum had not been obtained) and thereby indefinitely refusing to entertain a motion to adjourn.

§ 8.21 The House adjourned in the absence of a quorum.

On Sept. 23, 1968,(13) the House adjourned in the absence of a quorum.(14)

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER:(15) Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll and the following Members failed to answer to their names: . . .

THE SPEAKER: On this rollcall 188 Members have answered to their names, not a quorum.

ADJOURNMENT

MR. ALBERT: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 24, 1968, at 12 o'clock noon.

§ 8.22 A motion to adjourn is not entertained after a call of the House has been ordered.

On June 4, 1963,(16) Speaker John W. McCormack, of Massachusetts, refused to entertain a motion to adjourn.

---

(13) 114 CONG. REC. 27813, 90th Cong. 2d Sess.

(14) See also, for example, 116 CONG. REC. 11941, 91st Cong. 2d Sess., Apr. 15, 1970; 115 CONG. REC. 30137, 91st Cong. 1st Sess., Oct. 15, 1969; 114 CONG. REC. 30816, 30817, 90th Cong. 2d Sess., Oct. 11, 1968; 110 CONG. REC. 22023, 88th Cong. 2d Sess., Sept. 14, 1964; and 88 CONG. REC. 9096, 77th Cong. 2d Sess., Nov. 23, 1942.

(15) John W. McCormack (Mass.).

(16) 109 CONG. REC. 10152, 10153, 88th Cong. 1st Sess.

Mr. [John Bell] Williams [of Mississippi]: Mr. Speaker, since 45 or 50 Members have left the floor, I make the point of order a quorum is not present.

The Speaker: Evidently a quorum now is not present.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Speaker: The Clerk will call the roll.

Mr. Williams: Mr. Speaker, I move that the House do now adjourn.

The Speaker: The Chair will state that a call of the House has been ordered.

The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

The Speaker: On this roll call 332 Members have answered to their names, a quorum.

By unanimous consent further proceedings under the call were dispensed with.

Parliamentarian's Note: But see 8 Cannon's Precedents § 2644 where a motion to adjourn has been entertained when the House was dividing on a motion for a call of the House but before a call was finally ordered.

§ 8.23 In response to a parliamentary inquiry, the Chair advised that a motion to adjourn was not in order, where a call of the House had been ordered.

On June 3, 1950,[1] Speaker pro tempore Carl Albert, of Oklahoma, refused to entertain a motion to adjourn.

Mr. [Silvio O.] Conte [of Massachusetts]: Mr. Speaker, I make the point of order that a quorum is not present.

The Speaker Pro Tempore: Obviously a quorum is not present.

Mr. [John W.] McCormack [of Massachusetts]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

Mr. [Clare E.] Hoffman of Michigan: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Hoffman of Michigan: Is a motion to adjourn in order?

The Speaker Pro Tempore: Not now. The Chair will advise that a call of the House has been ordered.

Mr. Hoffman of Michigan: Can a member of the minority——

The regular order was demanded.

The Speaker Pro Tempore: The regular order is demanded. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Parliamentarian's Note: The

---

[1] 106 Cong. Rec. 11828, 11829, 86th Cong. 2d Sess.

House refused to adjourn pending special orders obtained to give Members an opportunity to sign a discharge petition. The 219th name was affixed to the petition at approximately 4:00 p.m., and the House adjourned shortly thereafter.

§ 8.24 When a Member holding the floor under a special order is interrupted by a call of the House, he is again entitled to the floor when a motion to dispense with further proceedings under the call has been agreed to; the Chair refuses to entertain a motion to adjourn unless the Member having the floor yields for that purpose.

On June 4, 1963,[2] during time allotted for special orders, Speaker John W. McCormack, of Massachusetts, refused to entertain a motion to adjourn where another Member had the floor during a special order.

During the progress of a special order, Mr. Clark MacGregor, of Minnesota, had been recognized for and was proceeding in debate when the following transpired:

MR. [ROBERT A.] EVERETT [of Tennessee]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

THE SPEAKER: On this rollcall [No. 65] 332 Members have answered to their names, a quorum.

Without objection, further proceedings under the call will be dispensed with.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, I object.

MR. ALBERT: Mr. Speaker, I move that further proceedings under the call may be dispensed with.

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 210, noes 0.

So the motion was agreed to.

MR. [JAMES] ROOSEVELT [of California]: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: Does the gentleman from Minnesota yield for that purpose?

MR. MACGREGOR: Mr. Speaker, I respectfully decline to yield to the gentleman from California for that purpose.

Motion to Recess

§ 8.25 A motion for a recess not being a privileged matter in the House, it is not in order, even in the absence of a quorum.

On May 14, 1930,[3] the Speaker pro tempore, John Q. Tilson, of

---

[2] 109 CONG. REC. 10154, 88th Cong. 1st Sess.

[3] 72 CONG. REC. 8961, 71st Cong. 2d Sess.

Connecticut, ruled on a motion to recess, as follows:

> THE SPEAKER PRO TEMPORE: On this roll call 198 Members have answered to their names, not a quorum.
>
> MR. [JAMES C.] KETCHAM [of Michigan]: A parliamentary inquiry, Mr. Speaker.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state it.
>
> MR. KETCHAM: Would it be in order to offer a motion to recess until 10 o'clock tomorrow or, if that be not in order, until 10 o'clock on next Calendar Wednesday?
>
> THE SPEAKER PRO TEMPORE: No motion is in order except a motion to adjourn, a quorum not being present.

Declaration of Recess

§ 8.26 The Speaker may not declare a recess and interrupt a roll call under Rule XV clause 4,(4) even though the House has by unanimous consent previously given him authority to declare a recess at any time for the remainder of the session.

On Oct. 11, 1962,(5) the House had granted permission to declare a recess as follows:

> MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that for the balance of this week it may be in order for the Speaker to declare a recess at any time, subject to the call of the Chair.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Oklahoma?
>
> There was no objection.

On Oct. 12,(6) during a roll call on H.R. 12900, the public works appropriations bill for 1963, Speaker John W. McCormack, of Massachusetts, made a ruling regarding the time for declaring a recess.

> MR. [EDMOND] EDMONDSON [of Oklahoma] (interrupting the rollcall): Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. EDMONDSON: May a recess be declared in advance of the completion of the vote?
>
> THE SPEAKER: The Chair will state that the present situation the Chair may not declare a recess with a rollcall in process.

Parliamentarian's Note: This precedent does not address the question whether the Chair could declare a recess when the roll call was completed if a quorum had not voted. There is no precedent directly on that question. See, however, 4 Hinds' Precedents § 2965, 5 Hinds' Precedents §§ 6665, 6666 and 6 Cannon's Precedents § 664.

---

4. See *House Rules and Manual* § 773 (1979).
5. 108 CONG. REC. 23207, 87th Cong. 2d Sess.
6. *Id.* at p. 23434.

Motion for Call of the House Pending After Rejection of Motion to Adjourn

§ 8.27 A pending motion for a call of the House, preempted by a motion to adjourn, remains pending if the motion to adjourn is rejected.

On June 4, 1963,(7) Speaker John W. McCormack of Massachusetts, by unanimous consent ordered a call of the House immediately after a vote on adjournment.

Mr. [John Bell] Williams [of Mississippi]: Mr. Speaker, a point of order.

The Speaker Pro Tempore:(8) The gentleman will state it.

Mr. Williams: Mr. Speaker, if they are going to clutter up the Record with this stuff, I think the rest of the Members ought to be present to hear it. I make the point of order that a quorum is not present.

The Speaker Pro Tempore: The Chair will count. [After counting.] Thirty-eight Member are present, not a quorum.

Call of the House

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I move a call of the House.

Mr. Williams: Mr. Speaker, I move that the House do now adjourn.

The Speaker: The question is on the motion of the gentleman from Mississippi.

The motion was rejected.

The Speaker: Without objection, a call of the House is ordered.

There was no objection.

The Clerk called the roll and the following Members failed to answer to their names: . . .

The Speaker: Three hundred and forty Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

Senate Precedents

§ 8.28 When the Senate adopts an order for a recess at the conclusion of its day's business to a day or hour certain, a motion may be made in the absence of a quorum to take a recess pursuant to such order; but a motion to take a recess or take a recess to an hour certain is not in order in the absence of a quorum, nor is it in order to entertain a motion to recess or to recess to an hour certain after the absence of a quorum has been determined unless such previous order has been adopted.

On July 27, 1962,(9) the Senate agreed to recess at the conclusion of its business for that day and, later,

---

7. 109 Cong. Rec. 10152, 88th Cong. 1st Sess.

8. G. Elliott Hagan (Ga.).

9. 108 Cong. Rec. 14895, 14948, 87th Cong. 2d Sess.

did recess (in the absence of a quorum) as follows:

Mr. [Michael J.] Mansfield [of Montana]: Mr. President, I ask unanimous consent that when the Senate concludes its business tonight, it recess to meet at 10 o'clock tomorrow morning.

The Vice President:[10] Is there objection? The Chair hears none and it is so ordered. . . .

Mr. [Wayne L.] Morse [of Oregon]: Mr. President, I suggest the absence of a quorum, and I ask that it be a live quorum. . . .

The Presiding Officer: A quorum is not present.

Recess to 10 A.M. Tomorrow

Mr. [George A.] Smathers [of Florida]: Mr. President, I move that the Senate recess in accordance with the previous order.

The motion was agreed to; and (at 10 o'clock and 14 minutes p.m.), under the previous order, the Senate recessed until tomorrow, Saturday, July 28, 1962, at 10 a.m.

On July 28,[11] Vice President Johnson ruled on a motion to recess in the absence of a quorum.

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Vice President. . . .

Call of the Roll

The Vice President: The Senate having taken a recess last night in the absence of a quorum, no business can be transacted until a quorum is present.

The clerk will therefore call the roll for the purpose of developing a quorum.

The legislative clerk called the roll; and the following Senators answered to their names: . . .

The Vice President: A quorum is not present.

Mr. [Hubert H.] Humphrey [of Minnesota]: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The Vice President: The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

The Vice President: The Sergeant at Arms is instructed to execute the order of the Senate. . . .

Mr. Humphrey: Mr. President, a parliamentary inquiry: Is a quorum present?

The Vice President: No. . . .

Mr. Humphrey: Mr. President, I move that the Senate stand in recess until Monday, at noon.

The Vice President: That motion is not in order. A motion to adjourn would be in order.

§ 8.29 When the Senate convenes following an adjournment taken in the absence of a quorum, the first order of business is the establishment of a quorum and the Presiding Officer directs the roll to be called.

---

[10] Lyndon B. Johnson (Tex.).

[11] 108 Cong. Rec. 14952, 87th Cong. 2d Sess.

On Sept. 23, 1968,(12) a quorum was established, as follows:

THE PRESIDENT PRO TEMPORE:(13) The Senate having adjourned on Friday, September 20, 1968, in the absence of a quorum, the clerk will call the roll to ascertain the presence of a quorum.

The bill clerk called the roll, and the following Senators answered to their names. . . .

THE PRESIDING OFFICER:(14) A quorum is not present.

MR. [MICHAEL J.] MANSFIELD [of Montana]: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

THE PRESIDING OFFICER: The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names: . . .

THE PRESIDING OFFICER: A quorum is present.

Parliamentarian's Note: Under House procedures, where a quorum fails to respond on a vote on a pending matter or motion, and the House adjourns, the unfinished business when the House reconvenes is the vote on the pending matter; but where the House simply adjourns in the absence of a quorum, a quorum is presumed present when the House reconvenes and there is no requirement to affirmatively establish a quorum.

§ 9. — To Dispense With Further Proceedings Under the Call

Appearance of a quorum and passage of the motion to dispense with further proceedings are necessary before pending business may be resumed(15) following a call of the House ordered on motion under Rule XV clause 2(a).(16) Agreement to the motion terminates the call of the House,(17) and efforts to call other Members to the Chamber,(18) including notation of absentees, arrest, and discharge of Members, and opens the doors.(19) The motion is not required on automatic votes by the yeas and nays because Rule XV clause 4,(20) which authorizes this procedure, provides that

---

12. 114 CONG. REC. 27814, 27815, 90th Cong. 2d Sess.
13. Carl Hayden (Ariz.).
14. Howard W. Cannon (Nev.).
15. § 9.7, infra.
16. *House Rules and Manual* § 768 (1979).
17. § 9.8, infra.
18. § 9.10, infra.
19. §§ 9.9, 9.10, infra.
20. *House Rules and Manual* § 773 (1979).

when the Speaker declares that a quorum is constituted, "further proceedings under the call shall be considered as dispensed with."(1)

The motion is not in order when a motion to arrest absent Members is pending,(2) and is not entertained until a quorum responds on the call,(3) is not preferential to a motion to adjourn,(4) but is not subject to challenge on a point of order of no quorum.(5) Unless a majority agrees to the motion, however, pending business cannot resume(6) and efforts to secure the attendance of absentees continue until all Members have been called for.(7)

A recently adopted rule, Rule XV clause 6(a)(4), adopted Apr. 9, 1974, provides that points of no quorum will not be in order "during the offering, consideration, and disposition of any motion incidental to a call of the House." (Motions to dispense with proceedings under the call are considered "incidental to a call of the House.") Clause 6(e)(2) of Rule XV was amended in the 96th Congress to automatically dispense with further proceedings under any call of the House when a quorum appears unless the Speaker in his discretion recognizes for a motion. The effects of these recent provisions will be discussed in supplements to this edition.

Tabling of Motion

§ 9.1 Since the motion to dispense with further proceedings under a call of the House is neither debatable nor amendable, the motion to table (Rule XVI clause 4)(8) is not in order.

On Aug. 27, 1962,(9) during consideration of Senate Joint Resolution 29, an amendment pertaining to qualification of electors, Speaker John W. McCormack, of Massachusetts, made a ruling regarding

---

1. *Id.*
2. 4 Hinds' Precedents §§ 3029, 3037, and annotation to Rule XV clause 2(a), *House Rules and Manual* § 770 (1979).
3. 6 Cannon's Precedents § 689, and annotation to Rule XV clause 2(a), *House Rules and Manual* § 770 (1979).
4. 8 Cannon's Precedents §§ 2643, 2644; § 9.4, infra.
5. §§ 9.12, 9.13, infra.
6. § 9.7, infra.
7. § 9.10, infra.
8. *House Rules and Manual* § 782 (1979).
9. 108 Cong. Rec. 17653, 87th Cong. 2d Sess.

the motion to dispense with further proceedings.(10)

Mr. [John Bell] Williams [of Mississippi]: Mr. Speaker, I demand that the Journal be read in full.

The Speaker: The Clerk will read the Journal in full.

The Clerk continued with the reading of the Journal.

Mr. Williams (interrupting reading of the Journal): Mr. Speaker, I make the point of order that a quorum is not present.

The Speaker: The Chair will count. [After counting.] Seventy-eight Members are present, not a quorum.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

The Speaker: On this rollcall, 356 Members have answered to their names, a quorum.

Mr. Williams: Mr. Speaker, I object to dispensing with further proceedings under the call of the House.

Mr. Albert: Mr. Speaker, I move that further proceedings under the call of the House be dispensed with.

The Speaker: The question is on the motion.

Mr. Williams: Mr. Speaker, I move to lay that motion on the table.

Mr. Albert: Mr. Speaker, I make the point of order that the motion to lay on the table is not in order.

The Speaker: The motion to dispense with further proceedings under the call is not debatable and not subject to amendment and, therefore, the motion to lay on the table is not in order.

The question is on the motion to dispense with further proceedings under the call.

The question was taken.

Parliamentarian's Note: Three quorum calls and two record votes on dispensing with further proceedings under the quorum calls interrupted reading of the Journal and delayed the Speaker's recognition of a Member to move to suspend the rules and pass a joint resolution proposing a constitutional amendment to abolish use of a poll tax as a qualification for voting in elections of federal officials.

Effect of Adoption or Rejection of Motion

§ 9.2 A Member failing to respond on a call of the House may not be recorded as present on that roll call if the House has already agreed to a motion to dispense with further proceedings under the call.

On Apr. 3, 1935,(11) the Speaker pro tempore made a ruling relating to recording a Member.

---

10. See 114 Cong. Rec. 26453, 90th Cong. 2d Sess., Sept. 11, 1968, for another illustration of this principle.

11. 79 Cong. Rec. 4925, 74th Cong. 1st Sess.

THE SPEAKER PRO TEMPORE:(12) Three hundred and forty-four Members have answered to their names, a quorum.

MR. [EDWARD T.] TAYLOR of Colorado: Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The doors were opened.

MR. [JOHN J.] MCSWAIN [of South Carolina]: Mr. Speaker, I was present and did not hear my name called. I desire to have my name called and to answer "present."

THE SPEAKER PRO TEMPORE: The request of the gentleman comes too late, but the Record will show that he is here. The gentleman from Texas is recognized for 1 hour.

§ 9.3 If a motion to dispense with further proceedings under a call for a quorum is rejected, the Members present remain in the Chamber until the Sergeant at Arms brings in enough Members to make the full membership.

On July 29, 1946,(13) a motion to dispense with further proceedings under the call was rejected.

Mr. Rankin and Mr. Marcantonio moved a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER:(14) On this roll call 240 Members have answered to their names, a quorum.

If there is no objection, further proceedings under the call will be dispensed with.

MR. [FRANK E.] HOOK [of Michigan]: Mr. Speaker, I object.

MR. [WILLIAM C.] COLE of Missouri: Mr. Speaker, I object.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I move that further proceedings under the call be dispensed with.

The question was taken; and on a division (demanded by Mr. Hook) there were—ayes 115, noes 1. . . .

MR. COLE of Missouri: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. COLE of Missouri: Should this motion be voted down and should further proceedings under the call be not dispensed with will the Chair please state the procedure to be followed then?

THE SPEAKER: We stay here until the Sergeant-at-Arms brings in enough Members . . . to make the full membership.

Precedence of Motion to Adjourn

§ 9.4 A yea and nay vote that the House adjourn takes precedence over a vote on dispensing with further proceedings under a call of the House.

---

12. John E. Rankin (Miss.).

13. 92 CONG. REC. 10409, 79th Cong. 2d Sess.

14. Sam Rayburn (Tex.).

On Feb. 15, 1950,(15) Speaker Sam Rayburn, of Texas, entertained a motion to adjourn following a division vote dispensing with further proceedings under a call of the House, and when the House refused to adjourn, put the question de novo on the motion to dispense with proceedings under the call.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I move that further proceedings under the call be dispensed with.

THE SPEAKER: The question is on the motion offered by the gentleman from Massachusetts [Mr. McCormack].

The question was taken; and on a division (demanded by Mr. Pickett) there were—ayes 126, noes 17. . . .

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a preferential motion. I move that the House do now adjourn; and on that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 126, nays 198, not voting, 103, as follows: . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The question is on the motion of the gentleman from Massachusetts [Mr. McCormack] to dispense with further proceedings under the call.

MR. [THOMAS J.] PICKETT [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. PICKETT: Mr. Speaker, at the time the gentleman from Michigan moved to adjourn, the Speaker had just stated what the question was—which was the motion of the gentleman from Massachusetts [Mr. McCormack] to dispense with further proceedings under a preceding call of the House. I objected to the vote, as was revealed by a division on the question, on the ground that a quorum was not present. Is not now the order of business an automatic roll call on the motion of the gentleman from Massachusetts [Mr. McCormack]?

THE SPEAKER: No; it is not. The vote now comes de novo.

The question is on the motion of the gentleman from Massachusetts [Mr. McCormack].

Parliamentarian's Note: Under 8 Cannon's Precedents §§ 2643, 2644, the motion to adjourn takes precedence over the motion to dispense with further proceedings.

Member Retains Floor After the Call

§ 9.5 When a Member holding the floor is interrupted by a call of the House, he is again entitled to the floor when a motion to dispense with further proceedings under the call has been agreed to.

On June 4, 1963,(16) Speaker John

---

15. 96 CONG. REC. 1810, 1811, 81st Cong. 2d Sess.

16. 109 CONG. REC. 10154, 88th Cong. 1st Sess.

W. McCormack, of Massachusetts, ruled on the right of a Member to hold the floor under a special order after the House had agreed to a motion to dispense with further proceedings under the call of the House.(17)

Receipt of Senate Message During Pendency of Motion

§ 9.6 A message from the Senate was received following a call of the House while a motion to dispense with further proceedings under the call was pending and prior to the reading and approval of the Journal.

On Sept. 11, 1968,(1) Speaker John W. McCormack, of Massachusetts, received a message while a motion to dispense with proceedings was pending and before the Journal had been read.

THE SPEAKER: On this roll call 356 Members have answered to their names, a quorum.

Without objection, further proceedings under the call will be dispensed with.

MR. [ROBERT] TAFT [Jr., of Ohio]: Mr. Speaker, I object.

THE SPEAKER: The gentleman objects? The Chair wishes to get the Record correct. The gentleman objects to further proceedings under the call being dispensed with?

MR. TAFT: I do object, Mr. Speaker.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move that further proceedings under the call be dispensed with. . . .

THE SPEAKER: . . . Before presenting the motion, the Chair will receive a message.

MESSAGE FROM THE SENATE

THE DOORKEEPER: Mr. Speaker, a message from the Senate.

THE SECRETARY (Mr. Arrington): Mr. Speaker——

THE SPEAKER: Mr. Secretary.

THE SECRETARY: Mr. Speaker, I have been directed by the Senate to inform the House that the Senate has agreed to the conference report on the bill S. 3293, to authorize appropriations during the fiscal year 1969 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

Parliamentarian's Note: Under Rule XV clause 6(a)(3), adopted Apr. 9, 1974, a quorum is not required to receive a message from the Senate.

Effect on Pending Business

§ 9.7 After a quorum has responded on a call of the House, further

---

17. For the proceedings of the House on this date, see § 8.24, supra.

1. 114 CONG. REC. 26453, 26454, 90th Cong. 2d Sess.

proceedings under the call must be dispensed with before the House can proceed with pending business.

On Oct. 8, 1968,(2) a point of no quorum and a call of the House having interrupted the reading of the Journal, Speaker John W. McCormack, of Massachusetts, made a statement regarding the need for a motion to dispense with further proceedings after a quorum had responded on the call.

Mr. [Brock] Adams [of Washington]: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Adams: It is my understanding that under rule XV—and I direct this as a parliamentary inquiry—that though the call had been made, if there was not a motion made for a majority vote to go and get the Members, and a quorum was present and the doors were locked, the business could proceed even though the call had been started? Is that correct or incorrect?

The Speaker: The Chair will state that further proceedings—in this case the reading of the Journal—could not proceed until further proceedings under the call have been dispensed with.

Adoption of Motion Terminates Call

§ 9.8 A motion to dispense with further proceedings under a call of the House may be agreed to by less than a quorum, if a quorum has responded on the call.

On May 14, 1930,(3) a motion to dispense with further proceedings ended the call of the House.

Mr. [Charles R.] Crisp [of Georgia]: Then, Mr. Speaker, I move to dispense with further proceedings under the call.

The Speaker Pro Tempore [John Q. Tilson, of Connecticut]: The question is on the motion of the gentleman from Georgia to dispense with further proceedings under the call.

The question was taken; and on a division (demanded by Mr. Stafford) there were—ayes 83, noes 22.

Mr. [William H.] Stafford [of Wisconsin]: Mr. Speaker, I object to the vote because there is no quorum present, and make the point of order that there is no quorum present. . . .

The Speaker Pro Tempore: It does not require a quorum to dispense with further proceedings under the call.(4)

§ 9.9 Passage of the motion to dispense with further proceedings opens the doors after a call of the House.

---

2. 114 Cong. Rec. 30094, 90th Cong. 2d Sess.

3. 72 Cong. Rec. 8962, 8963, 71st Cong. 2d Sess.

4. See also § 9.11, infra.

On May 14, 1930,(5) Speaker pro tempore John Q. Tilson, of Connecticut, responded to a parliamentary inquiry regarding the purpose of the motion to dispense with further proceedings.

Mr. [Earl C.] Michener [of Michigan]: My question was, whether, under the proceedings of the House, where absentees are ordered to be arrested and brought in, where the doors are closed, where the roll is called, and where the absentees are brought in one at a time and brought before the bar of the House to answer to their names, and immediately the Speaker announces that a quorum is present, and the next thing to do is to move to dispense with further proceedings under the call, the doors can not be opened until that motion is agreed to.

The Speaker Pro Tempore: The gentleman is correct in his statement. The Chair takes no issue with him.

§ 9.10 The purpose of the motion to dispense with further proceedings under the call, a matter decided by the membership, is to open the doors and terminate efforts to call other Members to the Chamber; if the motion is not agreed to, the call of the House continues until all Members are sent for.

On Feb. 22, 1950,(6) [Calendar Wednesday], Speaker Sam Rayburn, of Texas, made a ruling regarding the House's decision-making responsibility on a motion to dispense with further proceedings.

Mr. [Frank B.] Keefe [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Keefe: Where a point of order of no quorum has been made and the Speaker directs the calling of the roll, and at the conclusion of the calling of the roll a quorum is established, what further proceedings under the call are contemplated that require the making of a motion that further proceedings under the call be dispensed with, and force another roll call on that issue?

The Speaker: It might be possible that the Members present would want to call other Members to the session; they might want to send out to get absent Members.

Mr. Keefe: With all due deference to the Speaker, I am merely seeking information. I have been here 12 years and this is a matter that has always bothered me and bothered many other Members of the House. Is there any reason why further proceedings should be had once the call of the roll indicates the presence of a quorum?

The Speaker: That is a matter to be decided by the membership of the House. They may want other Members here for the consideration of certain business; they could have a further call of the House and send out and get the absent Members.

---

5. 72 Cong. Rec. 8963, 71st Cong. 2d Sess.
6. 96 Cong. Rec. 2160, 2161, 81st Cong. 2d Sess.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, may I be heard?

THE SPEAKER: The Chair recognizes the gentleman from Massachusetts.

MR. MCCORMACK: The Speaker is absolutely correct, but may I not add the further thought that when a quorum call is made the doors are closed, and the Sergeant at Arms is directed to notify absent Members. There are certain procedures that must be followed after the calling of the roll, such as the opening of the doors. Furthermore, when a quorum call is made it presumably continues or could continue until Members are sent for. That motion is made to bring it to a definite conclusion.

Quorum Requirement

§ 9.11 A motion to dispense with further proceedings under a call of the House does not require a quorum for adoption.

On July 23, 1942,(7) after a quorum had responded on a call of the House, Speaker Sam Rayburn, of Texas, made a ruling respecting the motion to dispense with further proceedings.(8)

THE SPEAKER: Without objection, further proceedings under the call will be dispensed with.

MR. [JOHN E.] RANKIN of Mississippi: Mr. Speaker, I object to that.

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, I move to dispense with further proceedings under the call.

THE SPEAKER: The question is on dispensing with further proceedings under the call.

The question was taken; and on a division (demanded by Mr. Rankin of Mississippi) there were—ayes 101, noes 5.

MR. RANKIN of Mississippi: Mr. Speaker, I object to the vote upon the ground that there is no quorum present and make the point of order that there is no quorum present.

THE SPEAKER: The Chair overrules the point of order, because the House can dispense with further proceedings under the call without the presence of a quorum.(9)

The gentleman from Mississippi is out of order at the moment. The Chair has already ruled, and in conformity with a long line of decisions.

So the motion to dispense with further proceedings under the call was agreed to.

§ 9.12 A motion to dispense with further proceedings under a call of the House is not subject to a point of no quorum where the call has disclosed the presence of a quorum.

---

7. 88 CONG. REC. 6542, 77th Cong. 2d Sess.

8. See also 86 CONG. REC. 13043, 76th Cong. 3d Sess., Oct. 8, 1940.

9. *Parliamentarian's Note:* Motions incidental to a call of the House do not require a quorum for adoption. This principle was formally incorporated into Rule XV clause 6(a)(4) on Apr. 9, 1974.

On Oct. 8, 1968,(10) during the reading of the Journal, Speaker John W. McCormack, of Massachusetts, refused to entertain a point of no quorum.

MR. [DONALD] RUMSFELD [of Illinois]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The gentleman from Illinois makes the point of order that a quorum is not present. Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this rollcall 279 Members have answered to their names, a quorum.

Without objection, further proceedings under the call will be dispensed with.

MR. RUMSFELD: Mr. Speaker, I object to dispensing with further proceedings under the call.

MR. [RAY J.] MADDEN [of Indiana]: Mr. Speaker, I move that further proceedings under the call be dispensed with.

MR. [ROBERT] TAFT [Jr., of Ohio]: Mr. Speaker, I object.

THE SPEAKER: The gentleman from Indiana [Mr. Madden] has moved that further proceedings under the call be dispensed with. An objection is not in order.

The question is on the motion offered by the gentleman from Indiana.

The question was taken; and the Speaker announced that the ayes appeared to have it.

MR. TAFT: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The Chair will state that the rollcall that has just been concluded discloses that a quorum is present and no business has been transacted up to this point.

So the motion was agreed to.

§ 9.13 A motion to dispense with further proceedings under a call of the House, while not entertained until a quorum responds on the call, may be agreed to by less than a quorum thereafter.

On Sept. 11, 1968,(11) Speaker John W. McCormack, of Massachusetts, ruled on the quorum requirement for a motion to dispense with further proceedings under the call.

MR. [DONALD] RUMSFELD [of Illinois]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The gentleman from Illinois makes the point of order that a quorum is not present, and evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

---

10. 114 CONG. REC. 30090, 90th Cong. 2d Sess.

11. 114 CONG. REC. 26453, 90th Cong. 2d Sess.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

The Speaker: On this rollcall [No. 314] 356 Members have answered to their names, a quorum.

Without objection, further proceedings under the call will be dispensed with.

Mr. [Robert] Taft [Jr., of Ohio]: Mr. Speaker, I object.

The Speaker: The gentleman objects? The Chair wishes to get the Record correct. The gentleman objects to further proceedings under the call being dispensed with?

Mr. Taft: I do object, Mr. Speaker.

Mr. Albert: Mr. Speaker, I move that further proceedings under the call be dispensed with. . . .

Before presenting the motion, the Chair will receive a message.

MESSAGE FROM THE SENATE

The Doorkeeper: Mr. Speaker, a message from the Senate. . . .

MOTION TO DISPENSE WITH FURTHER PROCEEDINGS UNDER THE CALL

The Speaker: The question is on the motion offered by the gentleman from Oklahoma [Mr. Albert].

The question was taken; and the Speaker announced that ayes appeared to have it.

Mr. [Thomas B.] Curtis [of Missouri]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker: The Chair will refer the gentleman to the rules of the House; and under the rules of the House it does not require a quorum to dispense with further proceedings under the call.

Mr. Curtis: Mr. Speaker, I demand tellers.

Tellers were ordered, and the Speaker appointed as tellers Mr. Albert and Mr. Curtis.

The House divided, and the tellers reported that there were—ayes 100, noes 64.

Mr. Rumsfeld: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion was agreed to.

Yea and Nay Votes

§ 9.14 The yeas and nays have been ordered on a motion to dispense with further proceedings under a call of the House, where a quorum had appeared on the call.

On June 5, 1946,(12) the yeas and nays were ordered on a motion to dispense with the call.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

The Speaker:(13) On this roll call 290 Members have answered to their names, a quorum.

Mr. [Graham A.] Barden [of North Carolina]: Mr. Speaker, I move that further proceedings under the roll call be dispensed with.

---

12. 92 Cong. Rec. 6354, 79th Cong. 2d Sess.

13. Sam Rayburn (Tex.).

MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 284, nays 6, not voting 140, as follows: . . .

§ 9.15 Because the motion to dispense with further proceedings under a call of the House (an incidental motion once a quorum has responded on the call) may be agreed to by less than a quorum, objection to the vote thereon on the ground that a quorum is not present does not force an automatic roll call under Rule XV clause 4.(14)

On Sept. 11, 1968,(15) an automatic roll call did not result after a Member, Thomas B. Curtis, of Missouri, objected to the vote on the motion to dispense with further proceedings on the ground that a quorum was not present and made a point of order to that effect.

MOTION TO DISPENSE WITH FURTHER PROCEEDINGS UNDER THE CALL

THE SPEAKER:(16) The question is on the motion offered by the gentleman from Oklahoma [Mr. Albert].

The question was taken; and the Speaker announced that ayes appeared to have it.

MR. CURTIS: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The Chair will refer the gentleman to the rules of the House; and under the rules of the House it does not require a quorum to dispense with further proceedings under the call.

MR. CURTIS: Mr. Speaker, I demand tellers.

Tellers were ordered, and the Speaker appointed as tellers Mr. Albert and Mr. Curtis.

The House divided, and the tellers reported that there were—ayes 100, noes 64.

MR. [DONALD] RUMSFELD [of Illinois]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion was agreed to.

§ 9.16 After a quorum has been established by a call of the House pursuant to Rule XV clause 2(a),(17) a motion to dispense with further proceedings under the call does not require a quorum for adoption [and therefore an "automatic roll-call" under Rule XV, clause 4, is not in order on the motion].

---

(14) See *House Rules and Manual* § 773 (1979).

(15) 114 CONG. REC. 26453, 90th Cong. 2d Sess.

(16) John W. McCormack (Mass.).

(17) See *House Rules and Manual* § 768 (1979).

On Aug. 15, 1972,(18) Speaker Carl Albert, of Oklahoma, refused to entertain a point of no quorum on a motion to dispense with proceedings under the call.

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently, a quorum is not present.

MR. [JAMES A.] BYRNE [of Pennsylvania]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this rollcall 366 Members have answered to their names, a quorum.

Without objection, further proceedings under the call will be dispensed with.

MR. FRASER: Mr. Speaker, I do object to dispensing with further proceedings under the rollcall.

THE SPEAKER: The question is on dispensing with further proceedings under the call.

The question was taken; and the Speaker announced that the ayes had it.

MR. FRASER: Mr. Speaker, I object to the vote on the ground that a quorum was not present and make the point of order that a quorum is not present.

THE SPEAKER: The Chair will remind the gentleman that the House has just established a quorum and there has been no intervening business. There is a quorum present. Under the call of the House a quorum is present.

Objections to Dispensing With Further Proceedings Under the Call

§ 9.17 Where objection is made to a unanimous-consent request to dispense with further proceedings under a call, the Chair may put the question to the House for a vote.

On Jan. 23, 1950,(19) Speaker Sam Rayburn, of Texas, put the question to dispense with further proceedings to a vote.

THE SPEAKER: On this roll call 392 Members have answered to their names; a quorum is present.

Without objection, further proceedings under the call will be dispensed with.

MR. [JAMES C.] DAVIS of Georgia: Mr. Speaker, I object.

THE SPEAKER: The question is on the motion to dispense with further proceedings under the call.

The question was taken; and on a division (demanded by Mr. Davis of Georgia) there were—ayes 144, noes 11. . . .

MR. DAVIS of Georgia: Mr. Speaker, I demand the yeas and nays on this vote.

The yeas and nays were refused.

---

(18) 118 CONG. REC. 28255, 92d Cong. 2d Sess.

(19) 96 CONG. REC. 772, 81st Cong. 2d Sess.

So the motion to dispense with further proceedings on the call was agreed to.

§ 9.18 Where objection is raised to a unanimous-consent request to dispense with further proceedings under a call of the House, a motion to that effect is in order.

On Oct. 8, 1968,(20) Speaker John W. McCormack, of Massachusetts, made a statement as to the effect of an objection to a request to dispense with further proceedings under a call of the House.

The Speaker: The Chair will recognize the gentleman on a parliamentary inquiry.

Mr. [Brock] Adams [of Washington]: Mr. Speaker, I am reserving the right to object.

As part of my reservation, Mr. Speaker the previous parliamentary inquiry was for the situation where a quorum was not present, but now, under the rule I am inquiring of the Chair about as part of my reservation, I am asking whether or not, if I object, will the call then proceed and those absent without excuse will be required to come to the Chamber "and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged"?

The Speaker: The Chair will state that if any Member should object, a motion to dispense with further proceedings under the call would be in order, and the Chair would put the motion.

§ 9.19 Objection having been raised to a unanimous-consent request to dispense with further proceedings under a call of the House, the question was moved and agreed to on a division vote.

On June 4, 1953,(21) the House voted on a motion to dispense with further proceedings.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I move a call of the House.

The Speaker:(1) The question is on the motion of the gentleman from Oklahoma.

Mr. [John Bell] Williams [of Mississippi]: Mr. Speaker, on that I ask for a division.

The question was taken; and there were—ayes 154, noes 2.

So a call of the House was ordered.

The Clerk called the roll and the following Members failed to answer to their names: . . .

The Speaker: On this rollcall 339 Members have answered to their names, a quorum is present.

Without objection, further proceedings under the call will be dispensed with.

Mr. Williams: I object, Mr. Speaker.

Mr. Albert: Mr. Speaker, I move

---

20. 114 Cong. Rec. 30212, 90th Cong. 2d Sess.

21. 109 Cong. Rec. 10151, 10152, 10154, 88th Cong. 1st Sess.

1. John W. McCormack (Mass.).

that further proceeding under the call be dispensed with.

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 213, noes 8.

So the motion was agreed to.

B. EFFECT OF PRESENCE OR ABSENCE OF A QUORUM

§ 10. Introductory

This section focuses on the effect of presence or absence of a quorum, including an analysis of proceedings which do and do not require a quorum. An axiom of parliamentary procedure is that the House cannot conduct business after the absence of a quorum has been announced.(2) However, "business" is a term of art which does not encompass all activities.

Prior to inclusion in the 93d Congress of clause 6 (a)–(d), Rule XV, on Apr. 9, 1974,(3) as amended

---

2. §§ 10.4–10.7, infra.

3. Rule XV clause 6(a)–(d), *House Rules and Manual* § 774c (1981) provides as follows:

"6. (a) It shall not be in order to make or entertain a point of order that a quorum is not present—

"(1) before or during the offering of prayer;

"(2) during the administration of the oath of office to the Speaker or Speaker pro tempore or a Member, Delegate, or Resident Commissioner;

"(3) during the reception of any message from the President of the United States or the United States Senate, and

"(4) during the offering, consideration, and disposition of any motion incidental to a call of the House.

"(b) A quorum shall not be required in Committee of the Whole for agreement to a motion that the Committee rise.

"(c) After the presence of a quorum is once ascertained on any day on which the House is meeting, a point of order of no quorum may not be made or entertained—

"(1) during the reading of the Journal;

"(2) during the period after a Committee of the Whole has risen after completing its consideration of a bill or resolution and before the Chairman of the Committee has reported the bill or resolution back to the House; and

"(3) during any period of a legislative day when the Speaker is recognizing Members (including a Delegate or Resident Commissioner) to address the House under special orders, with no measure or matter by the addition of paragraph (e) on Jan. 4, 1977,(4) in the 95th Congress, proceedings which, under the precedents, required a quorum included reading and approval of the Journal,(5) reading veto messages(6) and other messages from the President and Senate,(7) receiving the report of the Chairman of the Committee of the Whole,(8) and debate.(9) Proceedings which did not require a quorum included the prayer,(10) administration of the oath to a Member,(11) receipt of messages from the President or the

---

then under consideration for disposition by the House.

"(d) When the presence of a quorum is ascertained, a further point of order that a quorum is not present may not thereafter be made or entertained until additional business intervenes. For purposes of this paragraph, the term 'business' does not include any matter, proceeding, or period referred to in paragraph (a), (b), or (c) of this clause for which a quorum is not required or a point of order of no quorum may not be made or entertained."

4. Rule XV clause 6(e), *House Rules and Manual* § 774c (1979) provides as follows:

"(e)(1) Except as provided by subparagraph (2), it shall not be in order to make or entertain a point of order that a quorum is not present unless the Speaker has put the pending motion or proposition to a vote.

"(2) Notwithstanding subparagraph (1), it shall always be in order for a Member to move a call of the House when recognized for that purpose by the Speaker, and when a quorum has been established pursuant to a call of the House, further proceedings under the call shall be considered as dispensed with unless the Speaker, in his discretion, recognizes for a motion under clause 2(a) of this rule or for a motion to dispense with further proceedings under the call."

5. Annotation to U.S. Const. art. I, § 5, *House Rules and Manual* § 55 (1979); 4 Hinds' Precedents §§ 2732, 2733; and 6 Cannon's Precedents §§ 625, 629. See also § 11, infra, for a discussion of objections to a point of no quorum in proceedings related to the Journal.

6. 4 Hinds' Precedents § 3522; 7 Cannon's Precedents § 1094.

7. See § 12, infra, for a discussion of points of no quorum as related to messages.

8. Annotation to U.S. Const. art. I, § 5, *House Rules and Manual* § 55 (1979); and 6 Cannon's Precedents § 666.

9. 6 Cannon's Precedents § 659.

10. See § 12, infra, for a discussion of points of no quorum as related to the prayer.

11. Annotation to U.S. Const. art. I, § 5, *House Rules and Manual* § 56 (1979); 1 Hinds' Precedents § 174; and 6 Cannon's Precedents § 22. But see 2 Hinds' Precedents § 875.

Senate,(12) motions incidental to a call of the House,(13) and motions to adjourn(14) or for a call of the House(15) (where those motions are decided in the affirmative). Further discussion of precedents under the quorum rule (Rule XV clause 6) after Apr. 9, 1974, will appear in supplements to this edition and are carried in the *House Rules and Manual* at § 774c.

In General

§ 10.1 Where a quorum fails to develop on an automatic roll call, it is not necessary for the Chair to announce the result of the vote other than to inform the House that a quorum has not developed.

On Dec. 22, 1932,(16) Speaker John N. Garner, of Texas, made a statement regarding announcement of the vote of an automatic roll call.

Mr. [Edward T.] Taylor of Colorado: Mr. Speaker, I move the previous question on the motion [to recommit].

The previous question was ordered.

The question was taken; and on a division (demanded by Mr. De Priest) there were—ayes 34, noes 73.

Mr. [Oscar] De Priest [of Illinois]: Mr. Speaker, I object to the vote on the ground that there is not a quorum present.

The Speaker: Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 110, nays 95, not voting 224, as follows: . . .

Mr. [Henry T.] Rainey [of Illinois]: Mr. Speaker, I move that the House do now adjourn.

Mr. [Bertrand H.] Snell [of New York]: Mr. Speaker, may we have the vote announced?

The Speaker: It has developed there is not a quorum present.

Mr. Snell: Mr. Speaker, what was the vote?

The Speaker: It is not necessary to give that out, so the Parliamentarian informs the Chair, but the Chair may announce that so far the vote is—yeas 110, nays 95. There is not a quorum present.

---

12. See § 12, infra, which relates to receipt of messages.

13. Annotation to Rule XV clause 2(a), *House Rules and Manual* § 771a (1979); 4 Hinds' Precedents §§ 2994, 3029; and 6 Cannon's Precedents § 681.

14. Annotation to U.S. Const. art. I, § 5, *House Rules and Manual* § 55 (1979); and 5 Hinds' Precedents § 5365. See also § 8, supra, for a discussion of points of no quorum as related to adjournment.

15. Annotation to U.S. Const. art. I, § 5, *House Rules and Manual* § 55 (1979); 4 Hinds' Precedents § 2950; and 6 Cannon's Precedents § 680.

16. 76 Cong. Rec. 942, 943, 72d Cong. 2d Sess.

§ 10.2 The Speaker indicated that if a quorum failed to materialize on a yea and nay vote on a motion to adjourn decided in the negative, the House would proceed to establish a quorum under the call of the House which was in progress when the motion to adjourn was made.

On Oct. 14, 1969,(17) in the course of a call of the House during a debate on Vietnam, Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries regarding the procedure if a motion to adjourn failed.

MR. [GILLESPIE V.] MONTGOMERY [of Mississippi]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

MR. ALBERT: Mr. Speaker, I would prefer not to make this motion at this time, but in view of the parliamentary situation, I move that the House do now adjourn.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, on that I demand the yeas and nays.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GERALD R. FORD: Mr. Speaker, if the motion to adjourn does not prevail, and a quorum is not present what is the situation then?

THE SPEAKER: The Chair will state that the House would continue to proceed under the call of the House to establish a quorum.

MR. GERALD R. FORD: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GERALD R. FORD: Mr. Speaker, does that entail another quorum call at that point?

THE SPEAKER: The Chair will state that we would be continuing under the previous call, the call that was in existence prior to the motion to adjourn.

§ 10.3 To make a quorum at the end of a roll call vote on a conference report, the Speaker asked the Clerk to call his name.

On Oct. 20, 1966,(18) after a vote on Conference Report No. 2327 on H.R. 13103, the Foreign Investors Tax Act of 1966, Speaker John W. McCormack, of Massachusetts, cast his vote.

THE SPEAKER: The question is on agreeing to the conference report.

The question was taken; and the Speaker announced that the "ayes" appeared to have it.

---

17. 115 CONG. REC. 30054–56, 91st Cong. 1st Sess.

18. 112 CONG. REC. 28254, 28255, 89th Cong. 2d Sess.

MR. [GLENN] CUNNINGHAM [of Nebraska]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll. . . .

[The result of the vote was, yeas 171, nays 46.]

THE SPEAKER: The Clerk will call my name.

The Clerk called the name of Mr. McCormack, and he answered "yea."

So the conference report was agreed to.

Conducting Business After Quorum Fails to Appear

§ 10.4 The House cannot conduct business after the absence of a quorum has been announced.

On Oct. 14, 1969,(19) during a call of the House in the course of debate on Vietnam, Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry regarding business that could be conducted in the absence of a quorum.

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Speaker, so long as a quorum is not produced and in the event the House should instruct the Sergeant at Arms, would it be possible for the House to proceed, or would the House have to stand in abeyance with no further proceedings?

THE SPEAKER: The Chair will state that the House cannot do business without a quorum.

MR. FRASER: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. FRASER: Mr. Speaker, in order to see if I have that point clearly in mind, if there were an instruction to bring in absent Members and it did not succeed during the period of time, during that period of time the House could proceed with no other business; is that correct?

THE SPEAKER: The House cannot proceed at all until a quorum is established.

Parliamentarian's Note: Once the Chair has announced the absence of a quorum, the point of no quorum cannot then be withdrawn even by unanimous consent, as such a request would constitute business (4 Hinds' Precedents §§ 2928–31; 6 Cannon's Precedents § 657).

§ 10.5 Where a quorum is not present and a call of the House is ordered, the pending business cannot continue until a quorum is obtained and further proceedings under the call are dispensed with.

On Oct. 8, 1968,(1) Speaker John

---

(19) 115 CONG. REC. 30055, 91st Cong. 1st Sess.

(1) 114 CONG. REC. 30094, 90th Cong. 2d Sess.

W. McCormack, of Massachusetts, answered parliamentary inquiries regarding procedures before and after a quorum appears.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. [Brock] Adams [of Washington]: Mr. Speaker, if under a call of the House, after the call has been made and there is not a motion to dispense with further proceedings, is it true that the doors remain locked, and those that are here must remain present, but that it takes a majority vote of those present to issue a call to the Sergeant at Arms to bring others to the Chamber?

In other words, that if the doors remain locked, and we did not have a dispensing with further proceedings under the call, what would happen is that the situation would freeze, that those who were present would be required to stay, and that a warrant would not be issued unless there was a majority vote?

The Speaker: The Chair will state that no further business would be transacted until further proceedings under the call had been dispensed with.

Mr. Adams: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Adams: It is my understanding that under rule XV—and I direct this as a parliamentary inquiry—that though the call had been made, if there was not a motion made for a majority vote to go and get the Members, and a quorum was present and the doors were locked, the business could proceed even though the call had been started? Is that correct or incorrect?

The Speaker: The Chair will state that further proceedings—in this case the reading of the Journal—could not proceed until further proceedings under the call have been dispensed with.

§ 10.6 After the Speaker has ascertained the absence of a quorum and a call of the House has been ordered, the House may not conduct legislative business until a quorum is established.

On Oct. 5, 1972,(2) Speaker Carl Albert, of Oklahoma, ruled that the House could not proceed with legislative business.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, we have performed legislative business here, and there is no evidence of a quorum being present. I insist on my point of order.

The Speaker: Evidently a quorum is not present.

Mr. [John J.] McFall [of California]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

Mr. [Carl D.] Perkins [of Kentucky]: Mr. Speaker, will the gentleman withhold that request?

The Speaker: The Chair has announced the absence of a quorum, and the House cannot proceed until a quorum is established. The Clerk will call the roll.

---

2. 118 Cong. Rec. 34039, 92d Cong. 2d Sess.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

The Speaker: On this rollcall 344 Members have answered to their names, a quorum.

§ 10.7 The Chair refuses to recognize Members after the absence of a quorum has been announced by the Chair, and no business is in order until a quorum has been established.

On June 8, 1960,(3) Speaker Sam Rayburn, of Texas, made a ruling regarding recognition of Members in the absence of a quorum.

Mr. [Clare E.] Hoffman of Michigan: Mr. Speaker, I make the point of order that there is no quorum. I am telling you now, I told you I was coming here.

The Speaker: The gentleman from Michigan has already made a point of no quorum.

Mr. Hoffman of Michigan: I will renew it, if necessary.

The Speaker: The gentleman has made the point of order of no quorum, and he should not try to speak in that time.

The Chair will count. [After counting.] A quorum is not present.

Mr. [Richard] Bolling [of Missouri]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Speaker: The Clerk will call the roll.

Mr. Hoffman of Michigan: Mr. Speaker——

The Speaker: The Chair cannot recognize the gentleman because a point of order of no quorum has been made, and the Chair announced that there was no quorum.

The Clerk will call the roll.

Question of Privilege Pending Vote on Point of No Quorum

§ 10.8 Where a Member objects to a negative vote on a motion to adjourn on the ground that a quorum is not present, the Chair will not entertain a question of privilege pending disposition of the point of no quorum.

On Apr. 15, 1970,(4) Speaker pro tempore Charles M. Price, of Illinois, refused to entertain a question of personal privilege, where the House had just refused to adjourn and objection had been raised to that vote on the ground that a quorum was not present.

Definition of Vacating Proceedings

§ 10.9 Where a quorum failed to develop on an automatic roll call under Rule XV clause 4,(5) and

---

3. 106 Cong. Rec. 12142, 86th Cong. 2d Sess.

4. For the proceedings of this date, see § 8.6, supra.

5. See *House Rules and Manual* § 773 (1979).

the House adjourned, the word "vacate" in the rule was construed by action of the House as meaning solely the voiding of the proceedings incident to such call; the word did not mean the deletion of the record of proceedings from the Record and the Journal.

On Dec. 23, 1932,(6) and Dec. 27, 1932,(7) the interpretation of the word "vacate" in Rule XV clause 4, and the effect of vacating proceedings for purposes of the Journal and Record were discussed.(8)

Adjourning or Continuing Proceedings

§ 10.10 The absence of a quorum having been disclosed on an automatic roll call under Rule XV clause 4,(9) the House may adjourn or continue the proceedings under the call until a quorum of record is obtained.

On Oct. 12, 1962,(10) during a roll call on H.R. 12900, the public works appropriation bill for 1962, Speaker John W. McCormack, of Massachusetts, outlined the alternatives available in the absence of a quorum.

> MR. [WILLIAM M.] COLMER [of Mississippi] (interrupting the rollcall): Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state his parliamentary inquiry.
>
> MR. COLMER: Mr. Speaker, in the event that a quorum is shown not to be present what procedure is then left to the House?
>
> THE SPEAKER: The House can wait until a quorum arrives, or a motion to adjourn would be in order.

Parliamentarian's Note: The leadership had kept the House in session on this date, hoping that the two Houses might reach agreement on certain outstanding issues and adjourn *sine die.* The roll call was taken very slowly so that all available Members and hopefully a quorum of the House might reach the Chamber. When the call had proceeded for over 50 minutes the Majority Leader asked the Speaker to announce the vote. When it appeared that a quorum was not present, the Majority Leader moved to adjourn.

Adjourning or Instructing Sergeant at Arms

§ 10.11 If a quorum fails to develop on an automatic call of the House

---

6. 76 CONG. REC. 980, 981, 983, 984, 72d Cong. 2d Sess.
7. *Id.* at pp. 986, 987.
8. See § 2.22, supra, for relevant proceedings on these dates.
9. See *House Rules and Manual* § 773 (1979).
10. 108 CONG. REC. 23434, 87th Cong. 2d Sess.

under Rule XV clause 4,(11) the House may decide to adjourn, or, in the absence of such a motion, the Speaker may, in his discretion, sign warrants for use by the Sergeant at Arms in arresting absentees.

On Oct. 18, 1966,(12) during a roll call on House Resolution 1062, directing the Speaker to certify to a United States attorney a report of the Committee on Un-American Activities relating to the refusal of Jeremiah Stamler to testify before that committee, Speaker John W. McCormack, of Massachusetts, outlined the alternatives available when a quorum fails to appear.

The Speaker: The question is on agreeing to the resolution.

The question was taken; and the Speaker announced that the "ayes" appeared to have it.

Mr. [John Bell] Williams [of Mississippi]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker: The Chair will count. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 174, nays 37, not voting 221, as follows: . . .

Mr. [Charles L.] Weltner [of Georgia]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Weltner: Mr. Speaker, in the event that the result of the vote is announced and it appears that less than a quorum, or less than 218 Members, have voted, and unanimous consent is not given to dispense with further proceedings under the call, am I correct in understanding that the Sergeant at Arms will then be under an obligation to produce the nonvoting Members?

The Speaker: The Chair will state, in response to the inquiry, that if a quorum is not present one of two alternatives remain; one, to adjourn the House, and the other, to instruct the Sergeant at Arms.

The Chair wants to state, frankly, the Chair would not instruct the Sergeant at Arms. . . .

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Hall: In the event of the stipulations made by the Speaker as to whom he would recognize and not recognize, if further proceedings under the call of the House are not dispensed with, would it not be automatic that the Sergeant at Arms would be instructed by the Speaker to enjoin a quorum in the House?

The Speaker: The Chair will state that this is an automatic rollcall on the

---

11. See *House Rules and Manual* § 773 (1979).

12. 112 Cong. Rec. 27512, 27513, 89th Cong. 2d Sess.

adoption of the resolution. The question of dispensing with further proceedings under the call would not be involved.

In answer to the second part of the gentleman's inquiry, that would not automatically follow. . . .

MR. [LESLIE C.] ARENDS [of Illinois]: Like the Speaker, I hope the people will come out of the woodwork. Let us finish our business and keep on going.

THE SPEAKER: Apparently they are not going to.

The result of the vote was announced as above recorded.

THE SPEAKER: A quorum not being present, this matter will be taken up as the first order of business tomorrow. . . .

ADJOURNMENT

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock p.m.) the House adjourned until tomorrow, Wednesday, October 19, 1966, at 12 o'clock noon.

Parliamentarian's Note: See § 5.10, supra, for similar discussion to the effect that while under Rule XV clause 4 the House has adopted a standing rule ordering the Sergeant at Arms to bring in absent Members during the yea and nay vote, nevertheless to actually make an arrest under that rule the Sergeant at Arms must have in his possession a warrant signed by the Speaker at his discretion.

§ 10.12 Where a quorum fails to develop on a call of the House on motion under Rule XV clause 2,(13) the House has only two alternatives: to adjourn or to instruct the Sergeant at Arms to secure the attendance of absentees.

On Oct. 14, 1969,(14) during a call of the House while the House debated American military involvement in Vietnam, Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry regarding alternatives available when a quorum fails to appear.

MR. [GILLESPIE V.] MONTGOMERY [of Mississippi]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

MR. [DONALD M] FRASER [of Minnesota]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. FRASER: I would like to ask, if I may, where the matter stands now of the call of the House which was made

---

13. See *House Rules and Manual* § 768 (1979).

14. 115 CONG. REC. 30054, 30055, 91st Cong. 1st Sess.

by the majority leader. As I understand it, there is not yet a quorum recorded at the desk.

The Speaker: The gentleman is correct.

Mr. Fraser: Now, Mr. Speaker, what are the options open to the House at this point?

The Speaker: The Chair is patiently waiting to see. Regular order is the establishment of a quorum. If a quorum is not established, then a motion to adjourn would be in order.

Mr. Fraser: Mr. Speaker, am I correct that if a quorum is not established, there are only two choices open to the House—either a motion to adjourn or a motion to instruct the Sergeant at Arms to produce the missing Members?

The Speaker: The gentleman is correct.

Arresting Absent Members

§ 10.13 In response to a parliamentary inquiry, the Speaker pro tempore stated that the failure of a quorum to respond on a roll call vote (decided in the negative) on a motion to adjourn being conducted under Rule XV clause 4,(15) would require the Sergeant at Arms to arrest absent Members without further order of the House.

On Apr. 15, 1970,(16) Charles M. Price, of Illinois, the Speaker pro tempore, described the procedure if a quorum failed to appear.(17)

Mr. [Wayne L.] Hays [of Ohio]: Mr. Speaker, I move that the House do now adjourn.

The Speaker Pro Tempore: The question is on the motion offered by the gentleman from Ohio.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. Hays: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present. . . .

The Speaker Pro Tempore: The Chair will count. . . .

Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 81, nays 75, not voting 274, as follows: . . .

So the motion was agreed to. . . .

Mr. [Fletcher] Thompson of Georgia: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state his parliamentary inquiry.

Mr. Thompson of Georgia: Mr. Speaker, if there is no quorum present,

---

15. See *House Rules and Manual* § 773 (1979).

16. 116 Cong. Rec. 11940, 11941, 91st Cong. 2d Sess.

17. *Parliamentarian's Note:* See §§ 5.10, 10.11, supra, where the Speaker indicated that during an automatic vote by the yeas and nays, the Speaker must still sign arrest warrants at his discretion.

and there is a negative vote, what is the action of the Chair?

The Speaker Pro Tempore: The Chair will state that the action of the Chair is to wait until a quorum appears.

Mr. Thompson of Georgia: If no quorum appears, then what?

The Speaker Pro Tempore: The Chair will state that if a quorum does not appear, then the House operates under the automatic rule that they would bring the Members in.

Mr. Thompson of Georgia: Is a motion in order to go out and arrest the Members and bring them in?

The Speaker Pro Tempore: Under the rule, the Sergeant at Arms would bring the Members in.

Proceedings After Quorum Fails to Appear on Vote to Suspend Rules

§ 10.14 Where a quorum fails on a teller vote seconding a motion to suspend the rules, the Chair counts the House; if upon that count a quorum is found to be present, and the vote was in the affirmative, the second is ordered.

On Feb. 28, 1931,(18) Speaker Nicholas Longworth, of Ohio, counted the House.

The Speaker: Is a second demanded?

Mr. [Samuel] Dickstein [of New York]: Mr. Speaker, I demand a second.

Mr. [Thomas A.] Jenkins [of Ohio]: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

Mr. [Fiorello H.] LaGuardia [of New York]: Mr. Speaker, I object.

The Speaker: The vote for demanding a second is taken by tellers.

The Chair appointed Mr. Jenkins and Mr. Dickstein as tellers.

The House divided; and the tellers reported that there were—ayes 153, noes 2.

Mr. LaGuardia: I make the point of order that there is no quorum present.

The Speaker: There was no quorum on the teller count; but if the gentleman makes the point of order of no quorum, the Chair will count.

Mr. [Bertrand H.] Snell [of New York]: Mr. Speaker, do I understand if the motion has been seconded by teller vote this would be the unfinished business on Monday morning?

The Speaker: The gentleman from New York objects on the ground that the teller vote does not disclose a quorum. Therefore the Chair will count to see whether there is a quorum present. In case a quorum develops a second will be ordered. [After counting.] The Chair has counted with the utmost care and has counted 238 Members present, a quorum.

So a second was ordered.

§ 10.15 An automatic roll call under Rule XV clause 4,(19) ensued where a quorum failed when the question was put by tellers on ordering

---

(18) 74 Cong. Rec. 6575, 71st Cong. 3d Sess.

(19) See *House Rules and Manual* § 773 (1979).

a second on a motion to suspend the rules.

On Feb. 3, 1936,(20) Speaker Joseph W. Byrns, of Tennessee, ordered an automatic roll call.

> MR. [THOMAS F.] FORD of California: Mr. Speaker, I move to suspend the rules and pass the resolution (H.J. Res. 164) authorizing the President to invite foreign countries to participate in the Pacific Exposition of 1938 at Los Angeles, Calif. . . .
>
> THE SPEAKER: Is a second demanded?
>
> MR. [JOHN] TABER [of New York]: Mr. Speaker, I demand a second.
>
> MR. FORD of California: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.
>
> THE SPEAKER: Is there objection to the request of the gentleman from California?
>
> MR. TABER: Mr. Speaker, I object.
>
> THE SPEAKER: The question is on ordering a second.
>
> The Chair appointed Mr. Ford of California and Mr. Taber to act as tellers.
>
> The House divided; and the tellers reported there were—ayes 63 and noes 31.
>
> MR. TABER: Mr. Speaker, I object to the vote on the ground that there is not a quorum present.
>
> THE SPEAKER: The Chair will count. [After counting.] Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

Proceedings During Special Order

§ 10.16 Absence of a quorum precipitated a call of the House during a special order that followed the business of the day.

On Sept. 22, 1965,(1) absence of a quorum precipitated a call of the House during special order speeches.

> THE SPEAKER:(2) Under previous order of the House the gentleman from New York [Mr. Multer] is recognized for 20 minutes. . . .
>
> MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: Mr. Speaker, I make the point of order that a quorum is not present.
>
> THE SPEAKER: Evidently a quorum is not present.
>
> MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.
>
> A call of the House was ordered.

Parliamentarian's Note: See supplements to this edition for discussion of provisions in Rule XV clause 6 adopted in the 93d Congress on Apr. 9, 1974, to the effect that after the presence of a quorum is once ascertained, a point of no quorum may not be made or entertained

---

20. 80 CONG. REC. 1404, 74th Cong. 2d Sess.

1. 111 CONG. REC. 24716, 89th Cong. 1st Sess.
2. John W. McCormack (Mass.).

during any period of a legislative day when the Speaker is recognizing Members to address the House under special orders, with no measure or matter then under consideration for disposition by the House.

Unfinished Business

§ 10.17 Where a quorum fails to respond on an automatic roll call vote on a pending motion and the House adjourns, the vote on the motion becomes the unfinished business when the House again reconvenes. At the later meeting, the Speaker puts the question de novo.

On Oct. 12, 1962,(3) the House adjourned after a quorum failed to appear on a motion to recede from its disagreement on a Senate amendment to H.R. 12900, providing for public works appropriations for the 1963 fiscal year.(4)

> MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I offer a motion.
>
> The Clerk read as follows:
>
> Mr. Cannon moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert: $791,580,500.
>
> MR. CANNON: Mr. Speaker, I move the previous question. . . .
>
> THE SPEAKER:(5) Without objection, the previous question is ordered.
>
> The question is on the motion offered by the gentleman from Missouri [Mr. Cannon] to recede and concur in the Senate amendment with an amendment.
>
> The question was taken, and the Speaker announced that the noes appeared to have it.
>
> MR. CANNON: Mr Speaker, I ask for the yeas and nays.
>
> Mr. Speaker, I make the point of order that a quorum is not present and ask for the yeas and nays.
>
> THE SPEAKER: Does the gentleman object to the vote on the ground that a quorum is not present or ask for the yeas and nays?
>
> Does the gentleman object to the vote?
>
> MR. CANNON: I make the point of order that a quorum is not present and ask for the yeas and nays.
>
> THE SPEAKER: The gentleman from Missouri makes the point of order that a quorum is not present and objects to the vote on the ground that a quorum is not present.
>
> The Chair will count.
>
> Evidently a quorum is not present.
>
> The Doorkeeper will close the doors, the Sergeant at Arms will notify absent

---

3. 108 CONG. REC. 23432–34, 87th Cong. 2d Sess.
4. See also 112 CONG. REC. 27641, 27642, 89th Cong. 2d Sess., Oct. 19, 1966; 112 CONG. REC. 27512, 27513, 89th Cong. 2d Sess., Oct. 18, 1966; 86 CONG. REC. 13552, 76th Cong. 3d Sess., Oct. 14, 1940; and 86 CONG. REC. 13534, 13535, 76th Cong. 3d Sess., Oct. 10, 1940, for other illustrations of this principle.
5. John W. McCormack (Mass.).

Members, and the Clerk will call the roll. . . .

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask that the Chair announce the vote.

THE SPEAKER: On this vote, there were 84 yeas and 120 nays.

So a quorum is not present.

ADJOURNMENT

MR. ALBERT: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 31 minutes p.m.), the House adjourned until tomorrow, Saturday, October 13, 1962, at 12 o'clock noon.

On Oct. 13, 1962,(6) immediately after the opening prayer and approval of the Journal, Speaker John W. McCormack, of Massachusetts, presented the question de novo.

THE SPEAKER: The unfinished business is the vote on the motion of the gentleman from Missouri [Mr. Cannon].

Without objection, the Clerk will again report the motion of the gentleman from Missouri.

There was no objection.

The Clerk read as follows:

> Mr. Cannon moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$791,580,500".

THE SPEAKER: The question is on the motion.

The question was taken, and the Speaker announced that the noes appeared to have it.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 93, nays 143, not voting 199, as follows: . . .

The result of the vote was announced as above recorded.

§ 10.18 Where a Member objects to a vote on the ground that a quorum is not present, and, pursuant to a unanimous-consent agreement putting roll calls over until later in the week, further proceedings are postponed and the Speaker puts the question de novo when the bill is again before the House as unfinished business, any Member has the same rights as when the question was originally put and may ask for the yeas and nays, if not earlier refused, or, if a quorum is not present, may object to the vote on that ground.

---

6. 108 CONG. REC. 23474–76, 87th Cong. 2d Sess.

On Oct. 7, 1965,(7) Speaker John W. McCormack, of Massachusetts, answered an inquiry regarding the procedure for unfinished business.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Hall: Mr. Speaker, if on a previous day where under the unanimous-consent agreement of October 1, 1965, of this House objection was made on the basis that a quorum was not present and the point of order was made that a quorum was not present and the Speaker thereafter did state that evidently a quorum was not present and that the bill would be put over per the prior agreement; should that rollcall come automatically today when we are back in session and released from that agreement?

The Speaker: In response to the parliamentary inquiry, the Chair will state that the vote comes up de novo and Members have the same rights that they had when the matter was being considered on the previous day.

Mr. Hall: Mr. Speaker, a further parliamentary inquiry.

If I understand the distinguished Speaker correctly, then being de novo, objection would still have to be made on the same basis and as to whether a quorum was then present, it would still be honored?

The Speaker: A Member could demand the yeas and nays and if a sufficient number of Members are in favor of taking the vote by the yeas and nays, there would be a rollcall vote of course. Or a Member could object to the vote on the ground that a quorum is not present and, of course, if a quorum is not present the rollcall would be automatic.

Mr. Hall: Mr. Speaker, a further parliamentary inquiry.

If there was then a quorum present, however, it would not revert to the previous fact and therefore an individual Member would have to have stood on his rights at the time the unanimous-consent request was given rather than make the point of order that a quorum was not present on the current day?

The Speaker: The Chair will state that further consideration of certain bills was passed over in accordance with the unanimous-consent request entered into by the House on October 1 and the question of final passage comes up before the House today.

As the Chair has previously stated, if any Member wants a rollcall vote, he can demand a rollcall vote or . . . he can make the point that he objects to the vote on the ground that a quorum is not present.

§ 10.19 The mere fact that a quorum was not present on a prior day, when the vote was objected to, does not assure a roll call when the question is again put as unfinished business.(8)

---

7. 111 Cong. Rec. 26243, 89th Cong. 1st Sess.

8. See § 10.18, supra, for a discussion of the proceedings of Oct. 7, 1965.

Calendar Wednesday

§ 10.20 Where a quorum fails on ordering the previous question on a bill under consideration on Calendar Wednesday, and the House adjourns, the vote goes over until the next Calendar Wednesday when that committee's business would again be in order.

On Mar. 7, 1935,(9) Speaker Joseph W. Byrns, of Tennessee, answered inquiries with respect to whether a prior motion for the previous question was still pending.

> Mr. [Frederick R.] Lehlbach [of New Jersey]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state it.
>
> Mr. Lehlbach: Yesterday the previous question was moved on a bill then pending, and upon a division the vote was 36 to 16, whereupon a point of no quorum was made. Under the rules of the House there would follow an automatic roll call on the question of ordering the previous question, but before proceedings could be had the gentleman from New York [Mr. O'Connor] moved that the House adjourn, and the House accordingly adjourned. My inquiry is, Is the motion for the previous question still pending?
>
> The Speaker: The motion is pending and the vote will again be taken the next time the committee is called under the Calendar Wednesday rule; that will be the first business in order when the Judiciary Committee is again called on Calendar Wednesday.

Senate Precedents

§ 10.21 Where the Senate recesses over the weekend because of lack of a quorum, the Vice President at the next meeting of that body causes the roll to be called to secure a quorum.

On Mar. 7, 1938,(10) Vice President John N. Garner, of Texas, commented on the procedure following a recess.

> The Vice President: The Chair has examined the Record and finds that when the Senate took a recess on Friday last no quorum was present. The Chair, therefore, thinks it is his duty to direct the clerk to call the roll for the purpose of securing a quorum, for the Senate begins now just where it left off last Friday.
>
> The Chief Clerk called the roll, and the following Senators answered to their names: . . .
>
> The Vice President: Eighty-six Senators have answered to their names. A quorum is present.

§ 10.22 A motion to adjourn to a specific day is not in order in the

---

9. 79 Cong. Rec. 3121, 74th Cong. 1st Sess.

10. 83 Cong. Rec. 2903, 2904, 75th Cong. 3d Sess.

absence of a quorum of the Senate.

On Apr. 30, 1948,(11) President pro tempore Arthur H. Vandenberg, of Michigan, ruled on a motion to adjourn to a specific day.

The President Pro Tempore: Forty-three Senators having answered to their names, a quorum is not present.

Mr. [William F.] Knowland [of California]: I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The President Pro Tempore: The Sergeant at Arms will execute the order of the Senate.

After a little delay Mr. McCarthy and Mr. O'Daniel entered the Chamber and answered to their names.

Mr. [Scott W.] Lucas [of Illinois]: Mr. President, a parliamentary inquiry.

The President Pro Tempore: The Senator will state it.

Mr. Lucas: Is a motion to adjourn until Monday at 12 o'clock in order?

The President Pro Tempore: It is not, in the absence of a quorum.

Mr. [Richard B.] Russell [of Georgia]: Mr. President, a parliamentary inquiry.

The President Pro Tempore: The Senator will state it.

Mr. Russell: Does the Chair rule that a motion to adjourn is not in order in the absence of a quorum? My understanding of the rule is that the only motion in order when there is not a quorum is a motion to adjourn.

The President Pro Tempore: The Senator from Illinois inquired whether a motion to adjourn until Monday was in order in the absence of a quorum. A motion to adjourn is in order.

Mr. Russell: I did not catch the words "until Monday"; but I knew that a motion to adjourn was in order.

Mr. Lucas: Mr. President, another parliamentary inquiry.

The President Pro Tempore: The Senator will state it.

Mr. Lucas: When would the Senate reconvene if the Senator from Illinois made a motion to adjourn and it was carried?

The President Pro Tempore: Tomorrow at 12 o'clock noon.

Mr. Lucas: I thank the Chair.

§ 10.23 The Senate recessed in absence of a quorum, pursuant to an order previously agreed to which provided for a recess at the "conclusion of the business of the day."

On Apr. 4, 1964,(12) the Senate recessed.

Mr. [Michael J.] Mansfield [of Montana]: Mr. President, if there are no further questions I should like to suggest the absence of a quorum.

I now suggest the absence of a quorum.

---

11. 94 Cong. Rec. 5101, 5102, 80th Cong. 2d Sess.

12. 110 Cong. Rec. 6862, 6863, 88th Cong. 2d Sess.

THE ACTING PRESIDENT PRO TEMPORE:[13] The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names: . . .

THE ACTING PRESIDENT PRO TEMPORE: A quorum is not present.

MR. MANSFIELD: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

MR. [JOHN J.] WILLIAMS [of Delaware]: Mr. President, I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

RECESS TO 10 A.M. MONDAY NEXT

MR. MANSFIELD: Mr. President, a parliamentary inquiry.

THE ACTING PRESIDENT PRO TEMPORE: The Senator from Montana will state it.

MR. MANSFIELD: Is it in order at this time to move that the Senate stand in recess under the order previously entered?

THE ACTING PRESIDENT PRO TEMPORE: The rollcall has not started; and such a motion would be in order.

MR. MANSFIELD: Mr. President, if I may be heard in relation to my parliamentary request, I am afraid we are face to face with a travesty on the legislative process. I am doubtful—and I am indeed sorry to say this—that we will be able to get a quorum in the Senate today.

I believe it is a shame and an indignity upon this institution.

In order to prevent this situation from turning into a farce, I move, under the previous order, that the Senate now stand in recess until Monday morning next at 10 o'clock.

MR. WILLIAMS of Delaware: Mr. President, I ask for the yeas and nays on that motion.

The yeas and nays were ordered. . . .

The result was announced—yeas 27, nays 14, as follows: . . .

So Mr. Mansfield's motion was agreed to; and (at 11 o'clock and 41 minutes a.m.) the Senate took a recess under the order entered on Wednesday, April 1, 1964, until Monday, April 6, 1964, at 10 a.m.

This recess was taken pursuant to an order entered on Apr. 1, 1964, as follows:[14]

MR. [HUBERT H.] HUMPHREY [of Minnesota]: Mr. President, I ask unanimous consent that when the Senate completes its business on Saturday, it stand in recess until 10 a.m. on Monday.

THE PRESIDING OFFICER:[15] Without objection, it is so ordered.

§ 11. As Related to the Journal

Rule I clause 1[16] directs the Speaker to examine the Journal of the preceding legislative day and announce his approval thereof to the House. His approval is subject to ratification by the House, and, when demanded, this question is put to the House and is subject to a vote. One fifth of those present may demand the constitutional yeas and nays or an "automatic" yea and nay vote under Rule XV clause 4 may result if a quorum is not present.[17]

---

[13] Lee Metcalf (Mont.).

[14] 110 CONG. REC. 6746, 88th Cong. 2d Sess.

[15] Daniel B. Brewster (Md.).

[16] *House Rules and Manual* § 621 (1979).

Provisions of the rules adopted in and subsequent to the 93d Congress will be discussed in detail in supplements to this edition. Changes in the 93d Congress provided that after the presence of a quorum is once ascertained, a point of order that a quorum is not present could not be made or entertained during the reading of the Journal, and Rule I clause 1 was amended in the 96th Congress to delete the requirement for the appearance of a quorum before approval of the Journal.

In General

§ 11.1 The Speaker having announced his approval of the Journal under Rule I clause 1,[18] a Member may cause an automatic roll call to be taken on the question of approval of the Journal by the House.

On Oct. 14, 1972,[19] an automatic call of the House was taken on the question of approval of the Journal.[20]

> THE SPEAKER:[1] The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.
>
> Without objection, the Journal stands approved.
>
> MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Speaker, I object.
>
> THE SPEAKER: The question is on the approval of the Journal of the last day's proceedings.
>
> The question was taken, and the Speaker announced that the ayes appeared to have it.
>
> MR. ECKHARDT: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.
>
> THE SPEAKER: Evidently a quorum is not present.
>
> The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.
>
> The question was taken; and there were—yeas 248, nays 3, not voting 180, as follows: . . .
>
> So the Journal of the last day's proceedings was approved.

---

[17] See § 11.5, infra.

[18] See *House Rules and Manual* § 621 (1979).

[19] 118 CONG. REC. 36361, 36362, 92d Cong. 2d Sess.

[20] See also 117 CONG. REC. 28331, 28332, 92d Cong. 1st Sess., July 30, 1971, for another illustration of this principle.

[1] Carl Albert (Okla.).

§ 11.2 Under earlier rules permitting such procedure, the House has adjourned before the Journal was read, pending a point of order that a quorum was not present.

On Dec. 7, 1963,[2] the House adjourned before the Journal was read.

> The House met at 12 o'clock noon.
>
> The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer: . . .
>
> MR. [WILLIAM K.] VAN PELT [of Wisconsin]: Mr. Speaker, I make the point of order that a quorum is not present. . . .
>
> MR. [JOHN E.] MOSS [Jr., of California]: Mr. Speaker, I move that the House do now adjourn.
>
> The motion was agreed to; accordingly (at 12 o'clock and 2 minutes p.m.) the House adjourned until Monday, December 9, 1963, at 12 o'clock noon.

Parliamentarian's Note: Rule XXIV clause 1,[3] which prescribes the order of business, provides that business on the Speaker's table is not disposed of until the Journal has been read and approved. Executive communications on the Speaker's table on this occasion were held and referred on Dec. 9, 1963.

The House met on Saturday, Dec. 7, because the leadership had been informed that objection would be raised against any unanimous-consent request that the House adjourn from Friday to Monday. Meeting on Saturday fulfilled the "seven legislative days" requirement of Rule XXVII clause 4,[4] and made possible the filing of a discharge petition against House Resolution 574 (providing for consideration of H.R. 7152, the Civil Rights Act of 1963) on Monday, Dec. 9.

Reading and Approval of the Journal

§ 11.3 The roll has been called to ascertain a quorum prior to reading the Journal.

On Apr. 26, 1948,[5] a call of the House was ordered, before the Journal was read.

> THE SPEAKER:[6] The Clerk will read the Journal.
>
> MR. [ELLSWORTH B.] BUCK [of New York]: A point of order, Mr. Speaker. I make the point of order that a quorum is not present.
>
> THE SPEAKER: Will the gentleman

---

[2] 109 CONG. REC. 23751, 23752, 88th Cong. 1st Sess.

[3] See *House Rules and Manual* § 878 (1979).

[4] See *House Rules and Manual* § 908 (1979).

[5] 94 CONG. REC. 4834, 80th Cong. 2d Sess.

[6] Joseph W. Martin, Jr. (Mass.).

withhold his point of order until after the Journal is read?

MR. BUCK: I regret that I must insist on my point of order. Mr. Speaker.

THE SPEAKER: Will the gentleman withhold his point of order so that the Chair may swear in a new Member?

MR. BUCK: Yes, Mr. Speaker.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The Speaker laid before the House the following communication from the Clerk of the House:

APRIL 24, 1948.

The Honorable the SPEAKER,
House of Representatives.

SIR: A certificate of election in due form of law showing the election of Hon. John Albert Whitaker as a Representative-elect to the Eightieth Congress from the Second Congressional District of the State of Kentucky, to fill the vacancy caused by the resignation of Hon. Earle C. Clements, is on file in this office.

Very truly yours,
JOHN ANDREWS,
Clerk of the House of Representatives.

SWEARING IN OF MEMBER

Mr. [John A.] Whitaker [of Kentucky] appeared at the bar of the House and took the oath of office.

CALL OF THE HOUSE

MR. BUCK: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Obviously a quorum is not present.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this roll call, 351 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

The Journal of the proceedings of Thursday, April 22, 1948, was read and approved.

§ 11.4 A quorum call prior to the reading of the Journal, and another quorum call during its reading in full, delayed further consideration of a bill.

On Mar. 26, 1965,(7) a day scheduled for further consideration of H.R. 2362, the Elementary and Secondary Education Act of 1965, quorum calls were raised both before and during the reading of the Journal.(8)

THE SPEAKER:(9) The Clerk will read the Journal of the proceedings of yesterday.

---

7. 111 CONG. REC. 6093–95, 89th Cong. 1st Sess.
8. Rule XV clause 6(c)(1), [*House Rules and Manual* § 774c (1979)] adopted on Apr. 9, 1974, providing that after the presence of a quorum is once ascertained a further point of no quorum may not be entertained during the reading of the Journal, will be discussed in detail in supplements to this edition as they appear.
9. John W. McCormack (Mass.).

CALL OF THE HOUSE

MR. [CHARLES E.] GOODELL [of New York]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The gentleman from New York makes the point of order before the Journal is read?

MR. GOODELL: I do, Mr. Speaker.

THE SPEAKER: The gentleman from New York makes the point of order that a quorum is not present. Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this rollcall 416 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The Clerk proceeded to read the Journal of the proceedings of yesterday.

MR. GLENN ANDREWS [of Alabama] (interrupting the reading of the Journal): Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count. (After counting) 222 Members are present, a quorum.

The Clerk will continue the reading of the Journal.

The Clerk proceeded to read the Journal.

CALL OF THE HOUSE

MR. GLENN ANDREWS (interrupting reading of the Journal): Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. ALBERT: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this rollcall 397 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

§ 11.5 After 33 calls of the House had delayed the reading and approval of the Journal, the House ordered the doors to the Chamber locked during a call of the House and ordered that they remain locked until disposition of pending business, the reading and approval of the Journal.

The proceedings of the legislative day of Oct. 8, 1968, are shown elsewhere (see § 6.5, supra).

§ 11.6 Parliamentarian's Note: Only the names of the Members who failed to respond on a quorum call were spread on the Journal and read in full when demand was made.

The proceedings which took place on Sept. 13, 1965,(10) illustrate the

---

10. 111 CONG. REC. 23598, 89th Cong. 1st Sess.

procedures followed when demand was made that the Journal be read in full.(11)

Receipt of Messages

§ 11.7 A point of no quorum was made during the reading of the Journal and, at the request of the Chair, was withheld to permit the reception of a message from the Senate.

On Aug. 27, 1962,(12) a point of no quorum was withheld to permit receipt of a message from the Senate.(1)

THE JOURNAL

THE SPEAKER:(2) The Clerk will read the Journal of the last day's proceedings.

The Clerk read as follows:

Journal of the proceedings of Thursday, August 23, 1962.

MR. [JOHN BELL] WILLIAMS [of Mississippi] (interrupting the reading of the Journal): Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Will the gentleman withhold the point of order to permit the Chair to receive a message?

MR. WILLIAMS: I withhold the point of order. . . .

A message from the Senate by Mr. McGown, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

> H.R. 2446. An act to provide that hydraulic brake fluid sold or shipped in commerce for use in motor vehicles shall meet certain specifications prescribed by the Secretary of Commerce. . . .

THE SPEAKER: The gentleman from Mississippi makes the point of order that a quorum is not present.

Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

§ 11.8 Following completion of a call of the House, the Speaker received a message from the President before ordering the Clerk to resume reading the Journal.

On Aug. 27, 1962,(3) Speaker John W. McCormack, of Massachusetts, permitted receipt of a Presidential message following completion of a call of the House and prior to resumption of reading of the Journal.

---

11. For the current practice as to the reading of the Journal, see Ch. 5, supra.
12. 108 CONG. REC. 17651, 17652, 87th Cong. 2d Sess.
1. See also 108 CONG. REC. 19940, 87th Cong. 2d Sess., Sept. 19, 1962, for another illustration of this principle.
2. John W. McCormack (Mass.).
3. 108 CONG. REC. 17653, 87th Cong. 2d Sess.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move that further proceedings under the call of the House be dispensed with. . . .

THE SPEAKER: . . . The question is on the motion to dispense with further proceedings under the call.

The question was taken. . . .

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, I demand a division.

The House divided and there were—ayes 146, noes 19. . . .

MR. WILLIAMS: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion was agreed to.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Ratchford, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

> On August 20, 1962:
>
> H.R. 12547. An act to amend the act of August 7, 1946, relating to the District of Columbia hospital center, to extend the time during which appropriations may be made for the purposes of that act. . . .

THE SPEAKER: The Clerk will proceed with the reading of the Journal.

The Clerk continued the reading of the Journal.

Refusal of Point of No Quorum

§ 11.9 Although a point of no quorum may interrupt the reading of the Journal, the Speaker has refused to entertain a point of no quorum where a quorum has just been established by a call of the House and where no further business has been transacted.

On Jan. 22, 1971,[4] Speaker Carl Albert, of Oklahoma, refused to entertain a point of no quorum.

MR. [DONALD W.] RIEGLE [Jr., of Michigan]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. CHARLES H. WILSON [of California]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this rollcall 373 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

THE SPEAKER: The Clerk will proceed with the reading of the Journal.

MR. [JAMES C.] CLEVELAND [of New Hampshire]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: A quorum has just been established. There has been no business transacted.

---

[4] 117 CONG. REC. 131, 92d Cong. 1st Sess.

The Clerk will proceed with the reading of the Journal.

§ 12. As Related to Prayer by the Chaplain and Messages

Rule XV clause 6(a), added to the rules on Apr. 9, 1974, now provides that a point of no quorum may not be entertained at certain times. It is not in order during the offering of the prayer or during the reception of any message from the President or Senate. While the new rule reflects prior practice, in part, precedents interpreting the new rule will appear in supplements to this edition.

Prayers

§ 12.1 A quorum is not required for prayer by the Chaplain at the opening of a session, and the Speaker does not recognize Members for such a point of order.

On Mar. 19, 1941,(5) Speaker Sam Rayburn, of Texas, made a ruling regarding the quorum requirement for opening prayer.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RICH: Mr. Speaker, when I was seeking recognition from the Speaker before the Chaplain offered prayer, I felt that there would be a call of the House and I thought it would be a good thing for all the Members to be here for once to hear the Chaplain offer prayer. What does the Speaker think about that? Would it be proper procedure for a Member to make the point of order that a quorum is not present before the Chaplain offers prayer?

THE SPEAKER: As the Chair understands, it has been held many times that the prayer is not such business of the House that a quorum is required.

§ 12.2 Because the prayer offered at the beginning of the business of the House is not considered as business, the Speaker does not recognize a point of order that a quorum is not present before the prayer.

On Aug. 4, 1950,(6) Speaker Sam Rayburn, of Texas, made a ruling regarding the offering of the prayer.(7)

The House met at 10 o'clock a.m.

THE SPEAKER: The Chaplain will offer prayer.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, I make the

---

5. 87 CONG. REC. 2351, 2352, 77th Cong. 1st Sess.

6. 96 CONG. REC. 11829, 81st Cong. 2d Sess.

7. See also 92 CONG. REC. 3567, 79th Cong. 2d Sess., Apr. 12, 1946.

point of order that a quorum is not present.

The Speaker: We will have the prayer first, because that is not considered business.

Prayer will be offered by the Chaplain.

Messages

§ 12.3 A quorum is required for the reading of messages and quorum calls may interrupt such readings.

On Jan. 21, 1946,(8) the reading of the President's budget message was twice interrupted by quorum calls.

> The Speaker pro tempore laid before the House the message of the President on the state of the Union and transmitting the Budget.
>
> (For message, see p. 136 of the proceedings of the Senate of this date.)
>
> Mr. [Robert F.] Rich [of Pennsylvania] (interrupting the reading of the message): Mr. Speaker, a parliamentary inquiry.
>
> The Speaker Pro Tempore:(9) The Clerk read a message from the President of the United States, and the Chair feels that an inquiry at this time should not be entertained.
>
> Mr. Rich: Mr. Speaker, I think it is wise that the membership of the House hear the President's message, and I make a point of order that a quorum is not present.
>
> The Speaker Pro Tempore: Evidently a quorum is not present.
>
> Mr. [Albert A.] Gore [of Tennessee]: Mr. Speaker, I move a call of the House.
>
> A call of the House was ordered.
>
> The Clerk called the roll, and the following Members failed to answer to their names: . . .
>
> The Speaker Pro Tempore: On this roll call 303 Members have answered to their names; a quorum is present.
>
> By unanimous consent, further proceedings under the call were dispensed with.
>
> The Clerk resumed the reading of the President's message.
>
> Mr. Rich (interrupting the reading of the President's message): Mr. Speaker, I make the point of order that a quorum is not present.
>
> The Speaker Pro Tempore: Evidently a quorum is not present.
>
> Mr. [Adolph J.] Sabath [of Illinois]: Mr. Speaker, I move a call of the House.
>
> A call of the House was ordered.
>
> The Clerk called the roll, and the following Members failed to answer to their names: . . .
>
> The Speaker Pro Tempore: Two hundred and fifty-four Members have answered to their names, a quorum.
>
> By unanimous consent, further proceedings under the call were dispensed with.
>
> The Clerk concluded the reading of the President's message.

Parliamentarian's Note: This message contained approximately

---

8. 92 Cong. Rec. 164, 165, 79th Cong. 2d Sess.
9. John W. McCormack (Mass.).

25,000 words and took about three hours to read.

§ 12.4 Messages received by the Clerk during adjournments and forwarded to the Speaker are retained by the Speaker and not laid before the House until a quorum appears.

On Aug. 22, 1960,[10] following establishment of a quorum, receipt of a message was announced.

> The Speaker laid before the House the following communication from the Clerk of the House of Representatives:
>
> AUGUST 15, 1960.
>
> The Honorable the SPEAKER,
> *House of Representatives.*
>
> SIR: I have the honor to transmit herewith a sealed envelope addressed to the Speaker of the House of Representatives from the President of the United States, received in the Clerk's office on August 1, 1960. . . .
>
> The Speaker laid before the House the following message from the President of the United States, which was read, and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed with illustrations:
>
> THE WHITE HOUSE, *July 29, 1960.*
>
> *To the Congress of the United States:*
>
> I transmit herewith the 41st Report to Congress on Lend-Lease Operations for the calendar year 1959. . . .
>
> More details on this and other lend-lease items are contained in the report.
>
> DWIGHT D. EISEHNOWER.
>
> (Enclosure: 41st Report to Congress on Lend-Lease Operations.)

Parliamentarian's Note: A message from the President, received by the Clerk while the Congress was adjourned to a day certain, was retained at the Speaker's table for one week after the House reconvened since the transaction of business was prevented by lack of a quorum.

Notwithstanding the reconvening of the House on Aug. 15, a quorum did not appear until Aug. 22 and the House adjourned from day-to-day from the 15th through the 19th, and, by unanimous consent, from the 19th to the 22d. No business was conducted until the 22d, except that a letter of resignation from a Member was laid before the House.

§ 12.5 Messages from the President and the Senate may be received in the absence of a quorum, pending a motion for a call of the House.

On Oct. 8, 1968,[11] messages from the President and Senate were received pending a call of the House.

---

[10] 106 CONG. REC. 17026, 17027, 86th Cong. 2d Sess.

[11] 114 CONG. REC. 30091, 90th Cong. 2d Sess.

Mr. [William A.] Steiger of Wisconsin: Mr. Speaker, I make the point of order that a quorum is not present.

The Speaker:[12] Evidently a quorum is not present.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I move a call of the House.

The Speaker: At this time the Chair will receive a message.

Message From the President

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries. . . .

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

> H.R. 8781. An act to authorize the Secretary of the Interior to exchange certain lands in Shasta County, Calif., and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 653) entitled "An act to amend the Tariff Schedules of the United States with respect to the rate of duty on certain nonmalleable iron castings.". . .

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

The Speaker: On this rollcall 286 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

§ 12.6 Messages from the President and the Senate, though they may be received in the absence of a quorum during a call of the House are not read until a quorum is present.

On Oct. 11, 1968,[13] messages were received, as follows:

The Speaker:[14] The gentleman from Ohio insists upon his point of order that a quorum is not present, and evidently a quorum is not present.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

During the call of the roll a message was received from the President of the United States and from the Senate.

The Speaker: One hundred eighty-eight Members are present, not a quorum. . . .

Mr. Albert: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Saturday, October 12, 1968, at 12 o'clock noon.

---

[12] John W. McCormack (Mass.).

[13] 114 Cong. Rec. 30816, 30817, 90th Cong. 2d Sess.

[14] John W. McCormack (Mass.).

Parliamentarian's Note: On Oct. 12, 1968,(15) immediately after the opening prayer and reading of the Journal, these messages were read and referred:

> A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:
>
> H.R. 11394. An act to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes. . . .
>
> The Speaker laid before the House the following message from the President of the United States, which was received October 11; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor and ordered to be printed with illustrations:
>
> *To the Congress of the United States:*
>
> I am pleased to transmit the Third Annual Report of the Office of Economic Opportunity.

C. OBJECTIONS TO ABSENCE OF A QUORUM; POINTS OF NO QUORUM

§ 13. In General; Timeliness and Diligence

Recently adopted provisions in Rule XV clause 6 specify certain times or circumstances in which a point of no quorum cannot be made or entertained and enumerate others where, once the presence of a quorum has been ascertained, the point of no quorum may not be entertained. Certain parts of clause 6 reflect and incorporate existing precedents concerning points of no quorum; others are new and further restrict the use of the point of order that a quorum is not present. These provisions will be discussed in the supplements to this chapter as they appear.(16) The precedents which follow must be considered in the light of the changes to Rule XV adopted since April 1974.

Although it is clear that an objection to a vote because of the absence of a quorum comes too late after the motion to reconsider has been laid on the table,(1) whether an objection is timely when made following the announcement of a vote depends on several factors. For example, points of no quorum have

---

15. 114 Cong. Rec. 31116, 31117, 90th Cong. 2d Sess.

16. See also § 10, supra, for a discussion of proceedings which do and do not require a quorum.

1. §§ 13.23–13.25, infra.

been held to be timely and in order when made after the Chair announced his opinion that the noes on a voice vote prevailed but before the House proceeded to other business;(2) after a parliamentary inquiry which immediately followed announcement of the number who voted on a division vote(3) and after refusal of a yea and nay vote which followed a division.(4)

In General

§ 13.1 A sufficient number having stood to order the yeas and nays, but prior to the start of the roll call, the Speaker pro tempore recognized a Member who had shown due diligence to object to a vote on the ground of no quorum, thus causing the roll call to be automatic.

On Feb. 18, 1943,(5) during consideration of House Resolution 124, to appropriate funds for the Select Committee to Investigate Un-American Activities, the Chair caused the call to be automatic.

THE SPEAKER PRO TEMPORE:(6) The question is on the resolution.

The question was taken; and on a division (demand by Mr. Dickstein and Mr. Kennedy) there were—ayes 133, noes 29.

Mr. [Samuel] Dickstein [of New York] rose.

MR. [LEO E.] ALLEN of Illinois: Mr. Speaker, I demand the yeas and nays.

THE SPEAKER PRO TEMPORE: The gentleman from Illinois demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until counted.

Evidently, a sufficient number.

MR. DICKSTEIN: Mr. Speaker, I was on my feet making a point of order that a quorum is not present, and I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present. The call is automatic.

§ 13.2 The fact that a Member is on his feet does not constitute notice to the Chair that he is seeking recognition to object to a vote on the ground that a quorum is not present.

On Oct. 5, 1962,(7) during consideration of S. 1447, to amend the Teachers' Salary Act for the District of Columbia, Speaker John W. McCormack, of Massachusetts,

---

2. § 13.16, infra.
3. § 13.18, infra.
4. § 13.19, infra.
5. 89 CONG. REC. 1111, 78th Cong. 1st Sess.
6. Jere Cooper (Tenn.).
7. 108 CONG. REC. 22649, 87th Cong. 2d Sess.

ruled on the proper procedure to raise a point of no quorum.

THE SPEAKER: The question is on the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table. . . .

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The bill has already passed.

MR. FULTON: Mr. Speaker, I was on my feet.

THE SPEAKER: The Chair will state that if a Member is on his feet, that is insufficient. The gentleman did not address the Chair.

§ 13.3 The action of the House in passing a bill was, by unanimous consent, vacated when a Member insisted that he had been on his feet seeking recognition to object to the vote on the ground that a quorum was not present.

On Oct. 5, 1962,(8) during consideration of S. 1447, to amend the Teachers' Salary Act for the District of Columbia, Speaker John W. McCormack, of Massachusetts, ordered the proceedings vacated after a Member insisted that he had timely sought recognition to raise a point of no quorum.

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The bill has already passed.

MR. FULTON: Mr. Speaker, I was on my feet.

THE SPEAKER: The Chair will state that if a Member is on his feet, that is insufficient. The gentleman did not address the Chair.

MR. FULTON: I was saying "Mr. Speaker," and was not heard. I was on my feet.

THE SPEAKER: If the gentleman asks unanimous consent to vacate the action, the Chair will entertain a request. But the passage of the bill had been completed.

MR. FULTON: Mr. Speaker, I was on my feet addressing the Speaker, but I was not recognized.

THE SPEAKER: The Chair does not know what is in the gentleman's mind when the gentleman is on his feet.

MR. FULTON: I was saying "Mr. Speaker," right straight through. I am sure it is the custom of the House to be recognized when a point of order is being made.

THE SPEAKER: Without objection, the action whereby the bill was passed will be vacated.

There was no objection.

§ 13.4 A point of no quorum (made following announcement of a divi-

---

8. 108 CONG. REC. 22649, 87th Cong. 2d Sess.

sion vote on an amendment, totaling less than a quorum) does not precipitate an automatic roll call under Rule XV clause 4(9) unless an objection to the vote on the ground that a quorum is not present is made and sustained.

On Feb. 21, 1967,(10) during consideration of House Resolution 83, authorizing the Committee on Agriculture to make studies and investigations within its jurisdiction, a quorum call—and not an "automatic" vote under Rule XV clause 4—preceded the Chair's putting the question on the next motion, ordering the previous question.(11)

THE SPEAKER:(12) The question is on agreeing to the committee amendments.

The question was taken; and on a division (demanded by Mr. Jones of Missouri), there were—ayes 34, noes 13.

So the committee amendments were agreed to.

MR. JONES of Missouri: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Does the gentleman make the straight point of order that a quorum is not present?

MR. JONES of Missouri: Mr. Speaker, the gentleman makes the point of order. I want to get a quorum here and then I will have a division.

THE SPEAKER: The gentleman from Missouri makes the point of order that a quorum is not present.

The Chair will state that the vote is automatic at this point.

MR. JONES of Missouri: The vote on the resolution is not automatic. At this point we are only voting on the amendments.

THE SPEAKER: Does the gentleman from Missouri make the point of order that a quorum is not present and objects to the vote on the ground that a quorum is not present?

Evidently, a quorum is not present.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. HALL: Mr. Speaker, the parliamentary inquiry is whether or not the gentleman from Missouri did object to the vote on the basis that a quorum was not present as was stated by the Speaker.

THE SPEAKER: The Chair would like to understand clearly what the gentleman from Missouri is demanding.

Is the gentleman from Missouri demanding a straight quorum call?

MR. JONES of Missouri: I was demanding a straight quorum call, and

---

9. See *House Rules and Manual* § 773 (1979).

10. 113 CONG. REC. 4139, 4140, 90th Cong. 1st Sess.

11. Note: Representative Paul C. Jones (Mo.), intended to demand a second division vote on the amendments following the quorum call. During the call he was advised that a vote de novo would not be in order; consequently, he did not press the point after the quorum had been established.

12. John W. McCormack (Mass.).

then I am going to ask for a division when we come to adopting the resolution.

The Speaker: Evidently a quorum is not present.

Call of the House

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

The Speaker: On this rollcall, 323 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

Mr. [Richard] Bolling [of Missouri]: Mr. Speaker, I move the previous question.

The Speaker: The question is on ordering the previous question.

The question was taken, and on a division (demanded by Mr. Jones of Missouri) there were—ayes 87, noes 35.

Mr. Jones of Missouri: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker: Evidently, a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members and the Clerk will call the roll.

The question was taken; and there were—yeas 230, nays 85, not voting 117, as follows: . . .

So the previous question was ordered. . . .

The Speaker: The question is on agreeing to the resolution as amended.

The question was taken, and on a division (demanded by Mr. Jones of Missouri) there were—ayes 128, noes 25.

Mr. Jones of Missouri: Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The Speaker: The gentleman from Missouri objects to the vote on the ground that a quorum is not present, and makes the point of order that a quorum is not present.

Evidently a quorum is not present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

§ 13.5 Where objection was made to a vote on the ground that a quorum was not present, the Speaker, without ruling on the point of no quorum and pursuant to a special order, declared that further proceedings would be put over until the following day.

An objection to a vote on the ground that a quorum is not present takes precedence of a demand for tellers on such question.

On May 4, 1966,[13] during consideration of H.R. 14745, appropriations measures for the Departments of Labor and Health, Education, and Welfare for fiscal year 1967, Speaker John W. McCormack, of Massachusetts, ruled on the precedence of a point of no quorum over a demand for tellers.

---

[13] 112 Cong. Rec. 9838, 9839, 89th Cong. 2d Sess.

Mr. [Frank T.] Bow [of Ohio]: Mr. Speaker, I offer a motion to recommit.

The Speaker: Is the gentleman opposed to the bill?

Mr. Bow: I am, Mr. Speaker.

The Speaker: The Clerk will report the motion to recommit. . . .

The Speaker: The question is on the motion to recommit.

Mr. Bow: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

The Speaker: The question is on the passage of the bill.

Mr. Bow: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker: Under the order of the House of May 3, further proceedings will be postponed until tomorrow.[14]

Mr. [Melvin R.] Laird [of Wisconsin]: Mr. Speaker, is this on the motion to recommit, or on passage?

The Speaker: This is on passage.

Mr. Laird: That is what I thought, Mr. Speaker.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Gerald R. Ford: As I understood it, the question was on the motion to recommit.

Mr. Speaker, in all sincerity, it did not appear to me that the motion to recommit had been put to the House.

The gentleman from Ohio was on his feet and the assumption was, from that fact, that he was objecting to the vote on the motion to recommit.

The Speaker: The Chair will always try to protect the intent of a Member. Without objection, the question will be on the motion to recommit, and under the order of May 3, that vote will go over to tomorrow.

Mr. [John E.] Fogarty [of Rhode Island]: Mr. Speaker, I ask for tellers on the motion to recommit.

The Speaker: The Chair will state that the Chair has already announced that under the order of May 3, the vote will go over until tomorrow.

Mr. Fogarty: Is a teller vote a record vote?

The Speaker: The Chair has already passed upon the demand of the gentleman from Ohio who objected to the vote on the ground that a quorum was not present and made the point of order that a quorum was not present on the motion to recommit. The Chair has already passed on that and stated that under the order of May 3, the vote is postponed for further consideration until tomorrow.

---

[14] On May 3, 1966, the House agreed by unanimous consent to postpone roll calls, except on procedural matters, from Wednesday, May 4, 1966, to Thursday, May 5, 1966, to permit Members to attend the funeral of Senator Patrick V. McNamara (Mich.). See 112 Cong. Rec. 9686, 89th Cong. 2d Sess., May 3, 1966.

Mr. Fogarty: Mr. Speaker, a parliamentary inquiry, then.

The Speaker: Does the gentleman from Ohio withdraw his point of order of no quorum?

Mr. Bow: Yes, Mr. Speaker, I do at this point.

The Speaker: Then, the vote on the motion to recommit will go over until tomorrow.

Mr. Fogarty: Mr. Speaker, I would expect the same consideration on this side as was given to the gentleman from Ohio when it was too late on his motion to recommit. I have been standing on my feet trying to get recognized for a teller vote. I would expect the same consideration be given to me as was given to the opposition. I was trying to demand tellers all the time and I was not recognized. All I ask for is the same consideration as was given to the gentleman from Ohio.

The Speaker: The Chair will state that the Chair has made its ruling that under the order of May 3 further proceedings will go over on the motion to recommit and on the final passage of the bill until tomorrow.

Mr. Fogarty: I never realized a teller vote was a record vote.

The Speaker: The point of order that no quorum was present had been made by the gentleman from Ohio. The Chair will advise the gentleman from Rhode Island that that point of order takes precedence.

Mr. Fogarty: I was trying to get recognized before the point of order of no quorum was made and before the decision of the Chair was made in favor of the gentleman from Ohio and against the gentleman from Rhode Island.

The Speaker: The point of order of no quorum, the Chair will state, takes precedence over the demand for tellers and the gentleman from Ohio has made the point of order of no quorum.

Mr. Fogarty: The only point I make is I think the Chair ruled in favor of the gentleman from Ohio and against the gentleman from Rhode Island. That is the way it seems to me. If the Chair insists on it, there is not anything I can do about it. I just want my views known and expressed. That is the way I feel about it.

The Speaker: The motion to recommit is the right of the minority, and if the member of the minority seeks recognition and is qualified, then he is recognized. The gentleman from Ohio pursued his rights in demanding a call by the yeas and nays. An insufficient number rose. The gentleman from Ohio then made a point of order that a quorum was not present and objected to the vote on that ground. The Chair has already made its ruling that under the order of May 3, further proceedings under the call are postponed until tomorrow.

Mr. Fogarty: How am I to know that a quorum is not present?

The Speaker: The Chair counted. The Chair is aware of the number.

Mr. Fogarty: I assumed that the Chair counted the necessary number for a rollcall vote and found an insufficient number arose for that purpose but not for the purpose of establishing a quorum.

That was my understanding of the Chair at that time.

The Speaker: The Chair will repeat for the benefit of the gentleman from Rhode Island [Mr. Fogarty] that in accordance with the order of May 3, further consideration at this stage of the bill is postponed until tomorrow on a motion to recommit. That is the status of the matter and there is nothing left which the Chair can say.

Parliamentarian's Note: After objection to a vote on the ground that a quorum is not present has been made and, pursuant to previous agreement, the vote put over to the following day, a demand for tellers on the proposition is not in order because the question is no longer before the House.

During Debate

§ 13.6 A point of no quorum may interrupt a Member in debate.

On July 29, 1935,(15) Louis Ludlow, of Indiana, Speaker pro tempore, indicated that debate in the House could not proceed if a point of no quorum were made and sustained and that a point of no quorum could interrupt a Member who held the floor in debate.

Mr. [Robert F.] Rich [of Pennsylvania]: Mr. Speaker, the gentleman is making a very good speech; therefore I make the point of order there is not a quorum present.

Mr. [Samuel B.] Pettengill [of Indiana]: Mr. Speaker, I make the point that the gentleman cannot make a point of no quorum while the gentleman from Maryland is speaking.

The Speaker Pro Tempore: The Chair will count.

Mr. [Henry B.] Steagall [of Alabama]: Mr. Speaker, the gentleman from Maryland has not yielded for a point of no quorum.

The Speaker Pro Tempore: The Chair will state that a quorum must be present before any business may be transacted.

Parliamentarian's Note: See Rule XV clause 6 and interpretations of that rule in supplements to this edition to the effect that debate is not business of the House under that rule as amended.

§ 13.7 A point of no quorum may interrupt a Member having the floor in debate.

On July 2, 1940,(1) Speaker William B. Bankhead, of Alabama, alluded to the constitutional question raised by a point of no quorum.

Mr. [J. Parnell] Thomas of New Jersey: Mr. Speaker, I make a point of order that there is not a quorum present.

---

15. 79 Cong. Rec. 12017, 74th Cong. 1st Sess.

1. 86 Cong. Rec. 9189, 76th Cong. 3d Sess.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I do not yield for that purpose.

THE SPEAKER: The point of no quorum is a constitutional question at all times. Does the gentleman from New Jersey insist upon his point of order?

MR. THOMAS of New Jersey: I do.

THE SPEAKER: The Chair will count. [After counting.] One hundred and sixty-three Members are present, not a quorum.

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

§ 13.8 A point of no quorum is a privileged matter and is in order at any time, even when a Member has the floor in debate.

On May 4, 1949,(2) during consideration in the Committee of the Whole of H.R. 3989, to incorporate the Virgin Islands Corporation, the Chairman, Henry M. Jackson, of Washington, made a ruling regarding the privileged nature of a point of no quorum.(3)

MR. [FRED L.] CRAWFORD [of Michigan]: Mr. Chairman, I yield 10 minutes to the gentleman from Nebraska [Mr. Miller].

MR. [DONALD W.] NICHOLSON [of Massachusetts]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. NICHOLSON: Is it in order to move that the Committee adjourn?

THE CHAIRMAN: That motion is not in order in Committee. . . .

MR. NICHOLSON: Mr. Chairman, I make the point of order that a quorum in not present.

MR. [MONROE M.] REDDEN [of North Carolina]: Mr. Chairman, I have not heard the gentleman from Massachusetts ask the gentleman from Nebraska to yield and therefore suggest that the gentleman from Massachusetts is out of order.

THE CHAIRMAN: The Chair will state that a point of order based on no quorum is a privileged matter and is in order at any time.

§ 13.9 A point of no quorum may be made while a Member is occupying the floor in debate; in the event there is no quorum, the right of the Member to the floor is suspended until a quorum is secured.

On Mar. 25, 1937,(4) Speaker William B. Bankhead, of Alabama, stated the procedure when a quorum is not present.

MR. [SCOTT W.] LUCAS [of Illinois]: Mr. Speaker, will the gentleman yield?

---

2. 95 CONG. REC. 5616, 5617, 81st Cong. 1st Sess.
3. See also 95 CONG. REC. 9312, 81st Cong. 1st Sess., July 12, 1949; and 79 CONG. REC. 1868, 74th Cong. 1st Sess., July 29, 1935.
4. 81 CONG. REC. 2793, 75th Cong. 1st Sess.

MR. [RALPH E.] CHURCH [of Illinois]: When I finish my statement, please.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: I demand the gentleman be protected in his rights.

THE SPEAKER: The gentleman has declined to yield.

MR. [FRANK E.] HOOK [of Michigan]: Mr. Speaker, I make the point of no quorum.

THE SPEAKER: The gentleman from Michigan makes the point there is no quorum present. The Chair will count. [After counting.] One hundred and ten Members are present, not a quorum.

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I move that the House do now adjourn.

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, will the gentleman yield?

MR. RAYBURN: No business can be conducted in the absence of a quorum.

MR. SABATH: I should like to answer these despicable statements.

THE SPEAKER: The gentleman from Texas moves the House do now adjourn.

MR. CHURCH: I will yield to the gentleman. I want to be fair.

THE SPEAKER: No business of any character can be transacted during the absence of a quorum. It raises a constitutional question. A quorum is not present. The gentleman from Texas has moved that the House do now adjourn, which is not a debatable motion.

The question was taken; and the Speaker announced that the ayes had it.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, I ask for the yeas and nays.

THE SPEAKER: The gentleman from New York demands the yeas and nays.

The yeas and nays were refused.

So the motion to adjourn was agreed to.

During Special Order

§13.10 A point of no quorum interrupted a Member who was speaking under a special order following the business of the day.

On Sept. 22, 1965,[5] a call of the House interrupted a special order.[6]

THE SPEAKER:[7] Under previous order of the House the gentleman from New York [Mr. Multer] is recognized for 20 minutes.

MR. [ABRAHAM J.] MULTER: Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include extraneous matter.

THE SPEAKER: Is there objection to the request of the gentleman from New York?

---

[5] 111 CONG. REC. 24716, 24717, 89th Cong. 1st Sess.

[6] See supplements to this edition for discussion of provisions in Rule XV clause 6 adopted in the 93d Congress on Apr. 9, 1974, to the effect that after the presence of a quorum is once ascertained, a point of no quorum may not be made or entertained during any period of a legislative day when the Speaker is recognizing Members to address the House under special orders, with no measure or matter then under consideration for disposition by the House.

[7] John W. McCormack (Mass.).

There was no objection.

MR. MULTER: Mr. Speaker, as the Members of the House well know, for many long days and hours the gentleman from New York [Mr. Horton], the gentleman from Maryland [Mr. Mathias], the gentleman from Maryland [Mr. Sickles], and I have been engaged in a bipartisan effort to bring to the District of Columbia home rule which will be meaningful home rule to the District. . . .

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

During Reading of Resolution

§ 13.11 A point of no quorum may interrupt the reading of a resolution.

On Mar. 1, 1967,(8) reading of a privileged resolution was interrupted.(9)

MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, pursuant to House Resolution 1, I call up for immediate consideration the following privileged resolution, House Resolution 278, which is at the Clerk's desk.

The Clerk read the resolution, as follows:

> Whereas,
>
> The Select Committee appointed pursuant to H. Res. 1 (90th Congress) has reached the following conclusions:
>
> First, Adam Clayton Powell possesses the requisite qualifications of age, citizenship and inhabitancy for membership in the House of Representatives. . . .

MR. [PORTER] HARDY [Jr., of Virginia] (during reading of H.R. 278): Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER:(10) Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this rollcall 420 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with. . . .

THE SPEAKER: The Clerk will resume the reading of the resolution.

---

8. 113 CONG. REC. 4997, 90th Cong. 1st Sess. Compare § 13.28, infra, where the Chair refused to permit a point of no quorum during the reading of a resolution called up immediately following the establishment of a quorum.

9. See also 111 CONG. REC. 26727, 26728, 89th Cong. 1st Sess., Oct. 12, 1965; and 92 CONG. REC. 10639, 10640, 79th Cong. 2d Sess., Aug. 1, 1946.

10. John W. McCormack (Mass.).

§ 13.12 A Member may make a point of no quorum during the reading of a privileged resolution.

On July 31, 1946,(11) Speaker Sam Rayburn, of Texas, ruled on the propriety of interrupting the reading of a privileged resolution relating to contempt of a witness.(12)

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, I send to the Clerk's desk a privileged resolution.

The Speaker: The Clerk will report the resolution.

The Clerk read the resolution, as follows:

> *Resolved,* That the Speaker of the House of Representatives certify the foregoing report of the House Committee on Un-American Activities as to the willful and deliberate refusal of the following persons to produce before the said committee for its inspection certain books, papers, and records. . . .

Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, a point of order. I make the point of order that a quorum is not present.

Mr. Rankin: Mr. Speaker, I make the point of order that the gentleman is interrupting the reading of a resolution that is privileged.

Mr. Marcantonio: That is just too bad.

The Speaker: The resolution is privileged but a Member may make a point of no quorum at any time.

Evidently there is no quorum present.

Without objection, a call of the House is ordered.

There was no objection.

Effect of Postponing Roll Calls

§ 13.13 An agreement to postpone roll call votes until a time certain would not preclude a point of order of no quorum prior to that time.

On July 30, 1970,(13) Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry relating to the effect of an agreement to postpone roll calls.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Hall: Mr. Speaker, in the opinion of the Chair, is the unanimous consent restriction on quorum calls and on votes put over until after 4 p.m. today, anent the return of those who would honor our departed colleague still in effect inasmuch as they have returned, and many of them are now on the floor?

The Speaker: The gentleman will restate his parliamentary inquiry.

Mr. Hall: Mr. Speaker, may I inquire, in view of the fact that there

---

11. 92 Cong. Rec. 10592, 79th Cong. 2d Sess.
12. But see § 13.28, infra, for a precedent in which the point of no quorum was not permitted during the reading of a privileged resolution called up immediately after establishment of a quorum by a call of the House.
13. 116 Cong. Rec. 26525, 26526, 91st Cong. 2d Sess.

was an agreement as to quorum calls and rollcalls, whether or not we may see by a quorum call whether we have a quorum on the floor, in view of the importance of this bill, and in view of the fact that it was not scheduled, and in view of the fact that we were deferring until our colleagues returned from Ohio and the services for our departed colleague, Mike Kirwan.

The Speaker: The Chair will state there is no agreement that would prevent a point of order that a quorum is not present.

The Chair will further state that the action taken has been with the understanding of the leadership on both sides and with the further understanding that general debate on the bill will terminate at 4 o'clock.

Mr. Hall: Mr. Speaker, I appreciate the statement of the Chair. The Chair has answered my question. I thoroughly understand the problem, and I am interested in expediting the business of this House, but because of the importance of this bill and the national interest, I make the point of order that a quorum is not present.

Mr. [Wright] Patman [of Texas]: Mr. Speaker, will the gentleman withhold his point of order so I may ask a question?

Mr. Hall: I will withhold my point of order.

Mr. Patman: Mr. Speaker, the understanding is that we will go ahead and at 4 o'clock we will stop, and then we will have the rollcalls, and then the question of proceeding will take place after that.

Mr. Hall: Mr. Speaker, I appreciate that, but the importance as brought out during the discussion of the rule far transcends the importance of a lapsed agreement, or stopping at any time certain to resume the other rollcalls. I believe Members should be here and hear whether we should have a teller vote on whether we go into session, so I let my point of order stand.

The Speaker: The gentleman insists on his point of order?

Mr. Hall: I do, Mr. Speaker.

Mr. Speaker, I make the point of order that a quorum is not present.

The Speaker: Evidently a quorum is not present.

Mr. [Henry S.] Reuss [of Wisconsin]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

The Speaker: On this rollcall 335 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

During Reading of Journal

§ 13.14 A point of no quorum is in order during the reading of the Journal.

On Dec. 18, 1970,(14) the Speaker pro tempore ruled that the reading of the Journal could be interrupted by a point of no quorum.(15)

---

14. 116 Cong. Rec. 42505, 91st Cong. 2d Sess.
15. See supplements to this edition for discussion of provisions in Rule XV

THE SPEAKER:(16) The Clerk will proceed with the reading of the Journal.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I demand that the Journal be read in full.

The Clerk proceeded to read the Journal of the proceedings of yesterday. . . .

MR. [H. R.] GROSS [of Iowa] (during the reading): Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE:(17) The Chair will count. . . .

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman from New York will state his parliamentary inquiry.

MR. STRATTON: Mr. Speaker, is it in order for a Member to be recognized during the reading of the Journal which is a highly privileged document which we all want to hear in full?

THE SPEAKER PRO TEMPORE: The Chair will inform the distinguished gentleman from New York that a point of order that a quorum is not present is always in order.

A quorum is not present.

MR. [CLAUDE D.] PEPPER [of Florida]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

§ 13.15 The reading of the Journal was interrupted by a point of no quorum and a call of the House.

On Nov. 3, 1967,(18) the following proceedings took place:

THE SPEAKER:(19) The Clerk will read the Journal of the proceedings of Thursday, November 2, 1967.

The Clerk began the reading of the Journal. . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this rollcall 298 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with. . . .

The Clerk proceeded to read the Journal of the proceedings of yesterday.

---

clause 6 adopted in the 93d Congress on Apr. 9, 1974, to the effect that after the presence of a quorum is once ascertained, a point of no quorum may not be made or entertained during the reading of the Journal and the deletion of the requirement for the appearance of a quorum before approval of the Journal in the 96th Congress on Jan. 15, 1979.

16. John W. McCormack (Mass.).

17. William J.B. Dorn (S.C.).

18. 113 CONG. REC. 31081, 90th Cong. 1st Sess.

19. John W. McCormack (Mass.).

After Announcement of Voice Vote

§ 13.16 Objection to a vote in the House under Rule XV clause 4,[20] does not come too late after the Chair has announced his opinion of the voice vote on that question but before the House has proceeded to further business.

On Sept. 28, 1972,[1] during consideration of H.R. 13694, the American Revolution Bicentennial Commission amendments, Speaker pro tempore Chet Holifield, of California, ruled on the timeliness of a point of no quorum.

> The Clerk reread the amendment.
>
> THE SPEAKER PRO TEMPORE: The question is on the amendment.
>
> The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.
>
> MR. [LAWRENCE G.] WILLIAMS [of Pennsylvania]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.
>
> MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.
>
> MR. GERALD R. FORD: Mr. Speaker, I believe that the request of the gentleman from Pennsylvania (Mr. Williams), for a rollcall vote comes too late.
>
> THE SPEAKER PRO TEMPORE: The Chair will state that the Chair had announced his opinion of the vote, but had not proceeded to the next question.
>
> Does the gentleman from Pennsylvania insist upon his point of order that a quorum is not present and object to the vote on the ground that a quorum is not present?
>
> MR. WILLIAMS: I do, Mr. Speaker.
>
> THE SPEAKER PRO TEMPORE: Evidently a quorum is not present.
>
> The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.
>
> The question was taken; and there were—yeas 145, nays 182, not voting 103.

After Permission to Extend Remarks

§ 13.17 A second point of order that a quorum is not present is in order after intervening business such as permission to extend remarks in the Record.

On June 4, 1951,[2] the Speaker pro tempore, J. Percy Priest, of Tennessee, ruled that a second point of no quorum was in order.

> MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, I make the point of order a quorum is not present.

---

[20] See *House Rules and Manual* § 773 (1979).

[1] 118 CONG. REC. 32766, 92d Cong. 2d Sess.

[2] 97 CONG. REC. 6096, 6097, 82d Cong. 1st Sess.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present.

MR. [JERE] COOPER [of Tennessee]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER PRO TEMPORE: On this roll call 242 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with. . . .

Mr. Harrison of Virginia asked and was given permission to extend his remarks in two instances and include extraneous matter. . . .

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, I make the point of order that a quorum is not present. . . .

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HALLECK: Mr. Speaker, in view of the fact that a call of the House has just disclosed the presence of a quorum, is not the point of order sought to be made by the gentleman from Pennsylvania out of order at this time?

THE SPEAKER PRO TEMPORE: The Chair may say that some business has been transacted since the quorum was announced by the Chair.

MR. EBERHARTER: Mr. Speaker, I renew my point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The Chair will count. [After counting.] One hundred and forty-one Members are present, not a quorum.

MR. [MIKE] MANSFIELD [of Montana]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

Preceded by Parliamentary Inquiry

§ 13.18 Even though the Chair entertains a parliamentary inquiry following announcement of a vote by division, an objection to a vote on the grounds that a quorum was not present and voting does not come too late and is in order.

On Mar. 7, 1956,(3) during consideration of amendments to H.R. 9739, making appropriations for executive bureaus and agencies for the fiscal year ending June 30, 1957, Speaker pro tempore John W. McCormack, of Massachusetts, ruled on the timeliness of a point of no quorum.

> THE SPEAKER PRO TEMPORE: The Clerk will report the amendment on which a separate vote has been demanded.
>
> The Clerk read as follows:
>
> Page 18, strike out lines 14 through 20.
>
> THE SPEAKER PRO TEMPORE: The question is on the amendment.

---

3. 102 CONG. REC. 4215, 4216, 84th Cong. 2d Sess.

The question was taken; and the Chair being in doubt, the Committee divided and there were ayes 17, noes 31.

Mr. [Gordon] Canfield [of New Jersey]: Mr. Speaker, a point of order.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Canfield: Is it too late to request that that amendment be read to the House?

The Speaker Pro Tempore: The Chair will state that the amendment was read to the House.

Mr. Canfield: Mr. Speaker, in all frankness, I do not believe that many Members knew what they were voting on.

The Speaker Pro Tempore: The amendment was read. The Chair assumes every Member present was aware of the content of the amendment.

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. [John] Taber [of New York]: Mr. Speaker, I make the point of order that the gentleman's point comes too late. There was a parliamentary inquiry submitted since the division.

The Speaker Pro Tempore: The gentleman from New Jersey [Mr. Canfield] addressed the Chair on a point of order. The gentleman from Iowa [Mr. Gross] was justified in waiting until that point of order had been determined by the Chair. Immediately upon that determination the gentleman from Iowa made the point of order that a quorum was not present and objected to the vote on the ground that a quorum was not present. The Chair feels that the gentleman from Iowa exercised his rights under the rules in such manner that a point of order against his point of order would not lie.

Evidently a quorum is not present.

After Division Vote and Rejection of Yeas and Nays

§ 13.19 Less than a quorum having voted on a division, and a yea and nay vote having been refused, it is not too late to object to the division vote on the ground that a quorum is not present.

On June 1, 1942,(4) Speaker Sam Rayburn, of Texas, ruled on the timeliness of a point of no quorum.

The Speaker: The gentleman's time has expired. All time has expired. The question is, Will the rules be suspended and the bill passed?

The question was taken; and on a division (demanded by Mr. Dingell) there were ayes 85 and noes 121.

Mr. [Mike] Mansfield [of Montana]: Mr. Speaker, I ask for the yeas and nays.

The Speaker (after counting): Eighteen Members have arisen; not a sufficient number.

The yeas and nays were refused.

Mr. [Herman P.] Kopplemann [of Connecticut]: Mr. Speaker, I raise the point of order that there is no quorum present, and I object to the vote on that ground.

---

4. 88 Cong. Rec. 4767, 4774, 77th Cong. 2d Sess.

THE SPEAKER: The Chair will count.

MR. [ALBERT E.] CARTER [of California]: Mr. Speaker, I make the point of order that the gentleman's point of order comes too late.

THE SPEAKER: The Chair will hold that it does not come too late. The Chair will count. [After counting.] More than 218 Members are present, a quorum.

So, two-thirds not having voted in favor thereof, the motion to suspend the rules and pass the bill was rejected.

After Division Vote

§ 13.20 Objection to a voice vote for lack of a quorum having been withdrawn and demand then being made for a division, an objection to the division vote for lack of a quorum is in order and, if a quorum is not present, the roll call is automatic.

On Feb. 5, 1957,(5) during consideration of H.R. 4249, to make appropriations for the fiscal year ending June 30, 1957, an automatic roll call took place.

THE SPEAKER:(6) The Clerk will report the amendment on which a separate vote is demanded. . . .

THE SPEAKER: The question is on the amendment.

The question was taken and the Speaker announced that the "ayes" had it.

MRS. [EDITH S.] GREEN of Oregon: Mr. Speaker, I object to the vote on the ground a quorum is not present.

THE SPEAKER: The Chair will count.

MRS. GREEN of Oregon: Mr. Speaker, I withdraw the point of order and ask for a division.

The question was taken; and on a division (demanded by Mrs. Green of Oregon) there were—ayes 118, noes 46.

MRS. GREEN of Oregon: Mr. Speaker, I object to the vote on the ground that a quorum is not present, and I make the point of order that a quorum is not present.

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. H. CARL ANDERSEN: The point of order is that that request has already been made in reference to this vote, and the gentlewoman withdrew it.

THE SPEAKER: The objection to the voice vote on the grounds that a quorum was not present was withdrawn. The objection to the vote by division, on the grounds that a quorum is not present, is in order.

Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

During Vote on Amendment

§ 13.21 Where a quorum of the House is not present during the consideration of a bill in the

---

5. 103 CONG. REC. 1553, 85th Cong. 1st Sess.

6. Sam Rayburn (Tex.).

House as in Committee of the Whole, any Member may object to the vote on an amendment and invoke an "automatic" roll call.

On May 11, 1970,(7) Speaker pro tempore John J. Flynt, Jr., of Georgia, entertained a point of no quorum during proceedings of the House as in the Committee of the Whole.

The Speaker Pro Tempore: The question is on the committee amendments to the salary schedule found on pages 14 and 15 of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. [Brock] Adams [of Washington]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Gross: Is this bill not being considered in the House as in Committee of the Whole?

The Speaker Pro Tempore: The gentleman is correct.

Mr. Gross: Then, we cannot vote on an amendment on a roll-call vote.

The Speaker Pro Tempore: The Chair will state that the bill is being considered in the House as in Committee of the Whole and it is in the House. The gentleman's point of order is in order, and the rollcall will be automatic as soon as the Chair announces it.

Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

Before Prayer

§ 13.22 A quorum is not required for prayer by the Chaplain opening a session, and the Speaker does not recognize Members for points of no quorum at such time.

On Mar. 19, 1941,(8) Speaker Sam Rayburn, of Texas, refused to entertain a point of no quorum raised before the opening prayer.(9)

After Announcement of Vote Result

§ 13.23 It is too late to object to a vote for lack of a quorum under Rule XV clause 4,(10) after the Speaker has announced the result

---

7. 116 Cong. Rec. 14924, 91st Cong. 2d Sess.

8. For the proceedings of this date, see § 12.1, supra.

9. See supplements to this edition for discussion of provisions in Rule XV clause 6 adopted in the 93d Congress on Apr. 9, 1974, and subsequently, to the effect that a point of no quorum shall not be in order or entertained before or during prayer.

10. See *House Rules and Manual* § 773 (1979).

of the vote and a motion to reconsider has been laid on the table.

On Apr. 17, 1972,(11) during consideration of H.R. 13435, the Upper Colorado River basin authorization, Speaker Carl Albert, of Oklahoma, ruled on the timeliness of a point of no quorum.

> THE SPEAKER: The question is on the motion offered by the gentleman from California (Mr. Johnson) that the House suspend the rules and pass the bill H.R. 13435, as amended.
>
> The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.
>
> A motion to reconsider was laid on the table.
>
> MR. [MARIO] BIAGGI [of New York]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.
>
> THE SPEAKER: The gentleman's point comes too late. The gentleman should have made that point before the result of the vote was announced.

§ 13.24 Objection to a division vote on the ground that a quorum was not present comes too late after the vote has been announced, the bill passed, and a motion to reconsider laid on the table.

On Sept. 17, 1962,(12) after a vote on H.R. 12761, to provide relief for occupants of unpatented mining claims, Speaker pro tempore Carl Albert, of Oklahoma, ruled that a point of no quorum was made too late.

> THE SPEAKER PRO TEMPORE: The question is, Will the House suspend the rules and pass the bill H.R. 12761?
>
> The question was taken, and on a division (demanded by Mr. Dingell) there were—ayes 49, noes 13.
>
> THE SPEAKER PRO TEMPORE: In the opinion of the Chair, two-thirds having voted in the affirmative, the rules are suspended and the bill is passed, and without objection, a motion to reconsider is laid on the table.
>
> There was no objection.
>
> MR. [JOHN D.] DINGELL [Jr., of Michigan]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.
>
> MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I make the point of order that the point of order comes too late. The result of the vote has been announced.
>
> THE SPEAKER PRO TEMPORE: The gentleman is making a point of order.
>
> MR. DINGELL: And I object to the vote.
>
> THE SPEAKER PRO TEMPORE: That objection comes too late.
>
> MR. DINGELL: Very well, Mr. Speaker, I withdraw the point of order.

---

(11) 118 CONG. REC. 12981, 92d Cong. 2d Sess.

(12) 108 CONG. REC. 19650, 87th Cong. 2d Sess.

After Completing Action

§ 13.25 Objection to a vote on the ground that a quorum is not present comes too late after the bill has been passed, a motion to reconsider laid on the table, and further business is under discussion but the Speaker may entertain a unanimous-consent request to vacate the proceedings.

On Oct. 5, 1962,[13] during consideration of S. 1447, to amend the Teachers' Salary Act for the District of Columbia, Speaker John W. McCormack, of Massachusetts, after indicating that objection to a vote had not been timely made, obtained unanimous consent to vacate the proceedings whereby the bill was passed, after a Member, James G. Fulton, of Pennsylvania, insisted that he had timely sought recognition to raise a point of no quorum.

> THE SPEAKER: The question is on the committee amendment.
>
> The committee amendment was agreed to.
>
> The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table. . . .
>
> MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I would like to inquire whether or not there are further conference reports or unanimous-consent requests to be considered this evening.
>
> MR. [JOHN L.] MCMILLAN [of South Carolina]: I have one more bill I desire to call up from the Committee on the District of Columbia.
>
> MR. FULTON: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.
>
> THE SPEAKER: The bill has already passed.
>
> MR. FULTON: Mr. Speaker, I was on my feet.
>
> THE SPEAKER: The Chair will state that if a Member is on his feet, that is insufficient. The gentleman did not address the Chair.
>
> MR. FULTON: I was saying "Mr. Speaker," and was not heard. I was on my feet.
>
> THE SPEAKER: If the gentleman asks unanimous consent to vacate the action, the Chair will entertain a request. But the passage of the bill had been completed.
>
> MR. FULTON: Mr. Speaker, I was on my feet addressing the Speaker, but I was not recognized.
>
> THE SPEAKER: The Chair does not know what is in the gentleman's mind when the gentleman is on his feet.
>
> MR. FULTON: I was saying "Mr. Speaker," right straight through. I am sure it is the custom of the House to be recognized when a point of order is being made.
>
> THE SPEAKER: Without objection, the action whereby the bill was passed will be vacated.
>
> There was no objection.

---

[13] 108 CONG REC. 22649, 22650, 87th Cong. 2d Sess.

THE SPEAKER: The question is on the passage of the bill.

The question was taken, and the Speaker announced that the ayes appeared to have it.

§ 13.26 An action having been completed, the Speaker declined to recognize a Member to object to the vote where the Member had not shown the proper diligence in seeking recognition.

On June 29, 1959,[1] after a vote on the conference report on H.R. 7523, to provide a one-year extension of existing corporate and excise tax rates (H. Rept. No. 587), Speaker Sam Rayburn, of Texas, declined to recognize for an objection to the vote on the ground that a quorum was not present.

THE SPEAKER: Without objection, the previous question is considered as ordered.

There was no objection.

The previous question was ordered.

THE SPEAKER: The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

MR. [LEONARD G.] WOLF [of Iowa]: Mr. Speaker, I object on the ground that a quorum was not present on that vote.

THE SPEAKER: The gentleman is somewhat late. The Chair would not hold that the gentleman's point comes too late, if the gentleman insists on it, but the Chair had already declared the result of the vote and the motion to reconsider the vote was laid on the table.

Between Establishment of Quorum and Reading Message

§ 13.27 Where a quorum had been established on a call of the House, the Speaker has held that the act of laying a message before the House is not such transaction of business so as to permit another point of no quorum.

On Apr. 21, 1971,[2] Speaker Carl Albert, of Oklahoma, ruled untimely a point of no quorum raised after a message was received but before it was read.[3]

During Reading of Resolution After Establishment of Quorum

§ 13.28 While a point of order of no quorum may ordinarily interrupt the reading of a resolution (see § 13.11, supra), the Chair has refused to permit a point of no quorum during the reading of a

---

[1] 105 CONG. REC. 12110, 86th Cong. 1st Sess.

[2] For the proceedings of this date, see § 14.17, infra.

[3] See supplements to this edition for discussion of provisions in Rule XV clause 6 adopted on Apr. 9, 1974, to the effect that a point of no quorum may not be made or entertained during the reception of any message from the President or the Senate.

resolution called up immediately following the establishment of a quorum by a call of the House.

On Apr. 21, 1971,(4) Speaker Carl Albert, of Oklahoma, refused to allow interruption of reading of a resolution for a point of no quorum.

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count.

One hundred twenty-three Members are present, not a quorum.

MR. [JOHN J.] MCFALL [of California]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this rollcall 352 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with. . . .

MR. [RAY J.] MADDEN [of Indiana]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 373 and ask for its immediate consideration.

The Clerk read as follows:

H. RES. 373

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole. . . .

MR. JACOBS: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The Chair will state to the gentleman from Indiana that there has been no completed business at all since the Chair has just announced the presence of a quorum.

The Clerk will continue reading the resolution.

During Receipt of Report From Committee of the Whole

§ 13.29 The Speaker pro tempore having received the report of the Chairman of the Committee of the Whole that a quorum of the Committee appeared on a call of the roll under Rule XXIII clause 2,(5) he immediately directs the Committee to resume its sitting and does not recognize Members in the House with a point of order that a quorum is not present.

---

4. 117 CONG. REC. 11101, 11102, 92d Cong. 1st Sess.

5. See *House Rules and Manual* § 863 (1979). See supplements to this edition for discussion of provisions in Rule XXIII clause 2 adopted in the 93d Congress on Apr. 9, 1974, to the effect that the Chairman of the Committee is empowered to declare that a quorum is constituted when he determines that a quorum has appeared; and that, following such a declaration, proceedings are considered vacated and the committee does not rise but continues its sitting and resumes business.

On Aug. 2, 1967,(6) Speaker pro tempore Carl Albert, of Oklahoma, refused to recognize a point of no quorum.(7)

§ 14. Dilatoriness; Effect of Prior Count

Rule XVI clause 10,(8) provides that no dilatory motion shall be entertained by the Speaker. Although the question of the presence of a quorum is a constitutional one(9) which is always in order where the House is conducting business(10) and has the highest priority except for the motion to adjourn,(11) the Chair may refuse to entertain it if he determines that the motion was made for the purpose of delay(12) and the presence of a quorum, as evidenced by an immediately preceding vote or quorum call, is apparent to him.(13)

However, when presence of a quorum is not apparent or the Chair is uncertain, he counts the House.(14) If "business"(15) has intervened between ascertainment of a quorum and a point of no quorum, the Speaker may count the House.(16) Where the Speaker ascertains the presence of a quorum by actual count following objection to a vote under Rule XV clause 4, or where a demand for the yeas and nays is rejected and a division vote is then had on the pending question, the division vote is intervening business permitting another objection to the lack of a quorum, and the Speaker must again count the House. Nonetheless, when convinced that a point of no quorum is made for the purpose of obstructing business, the Speaker has declined to entertain it even after intervention of business.(17) Normally, the Chair declines to hold such a point of order dilatory, based upon the constitutional requirement for the presence of a quorum.(1)

---

6. 113 Cong. Rec. 21095, 90th Cong. 1st Sess.
7. For the House proceedings on this date, see § 7.17, supra.
8. *House Rules and Manual* § 803 (1979).
9. § 14.2, infra.
10. § 14.3, infra.
11. See *House Rules and Manual* § 769 (1979); 4 Hinds' Precedents §§ 2950, 2988; and 6 Cannon's Precedents § 680. See also § 8, supra, for discussions of the motion to adjourn as related to a quorum.
12. § 14.9, infra.
13. §§ 14.10 et seq., infra.
14. § 14.1, infra.
15. For discussion of proceedings which qualify as "business," see § 10, supra.
16. See §§ 14.7, 14.8, infra.
17. 8 Cannon's Precedents § 2811.
1. See §§ 14.2, 14.3, infra.

The question of dilatoriness is not necessarily determined by the length of time since ascertainment of a quorum or the character of the intervening business, but by the Speaker's opinion as to whether, under the circumstances, the motion is made with intent to delay the business of the House.(2)

In General

§ 14.1 A point of no quorum may be held to be dilatory when a quorum has been established and it is apparent to the Chair that a quorum remains on the floor of the House; but where the presence of a quorum is not apparent, or the Chair is uncertain, he will count the House.

On the legislative day of Oct. 8, 1968,(3) during consideration of Senate Joint Resolution 175 to suspend the equal-time provision of the Communications Act of 1934 for candidates for President and Vice President for the 1968 campaign, Speaker John W. McCormack, of Massachusetts, clarified certain procedures with respect to points of no quorum.

> MR. [BARBER B.] CONABLE [Jr., of New York]: Mr. Speaker, I make the point of order that a quorum is not present.
>
> MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Speaker, a point of order.
>
> THE SPEAKER: The gentleman will state his point of order.
>
> MR. WRIGHT: Mr. Speaker, I make a point of order against the gentleman's point of order on the ground that the gentleman's point of order is a dilatory motion, proscribed by the rules, wherein it is clearly set forth that no dilatory motion shall be entertained by the Speaker.
>
> THE SPEAKER: When it is apparent to the Chair that a quorum is present, the Chair can declare a point of order of no quorum to be dilatory; but when it is apparent to the Chair that a quorum is not present, or the Chair is not certain, the Chair will count. And the Chair will count on this occasion.
>
> One hundred and fifty-five Members are present, not a quorum.

Chair's Reluctance to Hold Points of No Quorum to Be Dilatory

§ 14.2 The Speaker stated that a question as to whether a quorum

---

2. 8 Cannon's Precedents § 2804.

See supplements to this edition for discussion of provisions in Rule XV clause 6 adopted by the 93d Congress on Apr. 9, 1974, to the effect that after the presence of a quorum is ascertained, a further point of order that a quorum is not present may not thereafter be made or entertained until additional business intervenes.

3. 114 CONG. REC. 30212, 90th Cong. 2d Sess., Oct. 8, 1968 (Calendar Day).

was present was a constitutional one, and he refused to hold it to be dilatory.

On May 22, 1946,(4) after debate in the House had been interrupted by numerous points of no quorum and calls of the House, Speaker Sam Rayburn, of Texas, made a statement as to the constitutional nature of a point of no quorum.

> MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Speaker, I make a point of order that a quorum is not present.
>
> MR. [CHRISTIAN A.] HERTER [of Massachusetts]: Mr. Speaker, a point of order.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. HERTER: Mr. Speaker, the motion just made is a dilatory motion which should be ruled out under rule XVI.
>
> THE SPEAKER: The Chair may say, in reply to the gentleman from Massachusetts, that the question of whether a quorum is present or not is a constitutional one.
>
> The Chair will count. [After counting.] One hundred and twenty-six Members are present, not a quorum.

§ 14.3 Since the Constitution defines a quorum of the House and states that it shall be required for the conduct of business, and a point of order that a quorum is not present is the only way a Member has of enforcing this constitutional requirement, the Chair is extremely reluctant to withhold recognition for this purpose.

On Oct. 8, 1968,(5) during consideration of Senate Joint Resolution 175, to suspend for the 1968 campaign the equal-time requirements of the Communications Act of 1934 for candidates for President and Vice President, Speaker pro tempore Wilbur D. Mills, of Arkansas, responded to a parliamentary inquiry.

> THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.
>
> MR. [JAMES C.] WRIGHT [Jr., of Texas]: I thank the Speaker for permitting me this additional parliamentary inquiry. . . .
>
> On occasion the Chair has held that certain motions and points of order amounted to dilatory tactics, and that that was their obvious motivation, and on those occasions the Chair has summarily refused to recognize such obviously dilatory points of order and motions.
>
> Mr. Speaker, my point of parliamentary inquiry is: would the Chair not feel that under the present situation, with repeated points of order being made that a quorum is not present, immediately followed by the absenting of themselves by certain Members who

---

4. 92 CONG. REC. 5445, 79th Cong. 2d Sess.

5. 114 CONG. REC. 30097, 90th Cong. 2d Sess.

have come in to answer the quorum, to be a rather obvious dilatory tactic, and one which might obviously lend itself to the assumption on the part of the Chair that a quorum having been established and proven so frequently and repeatedly during the day, would be presumed to be present for the completion of business?

The Speaker Pro Tempore: The Chair is ready to respond to the parliamentary inquiry posed by the gentleman from Texas.

It is the understanding of the Chair that no occupant of the Chair has ever in the history of the Congress held that a point of order that a quorum is not present is a dilatory tactic. The reasoning, obviously, is that the Constitution itself requires the presence on the floor of the House of a quorum at all times in the transaction of the business of the House of Representatives.

§ 14.4 The Chair has the right under certain circumstances to hold that motions are dilatory, but a point of no quorum is a question of very high privilege.

On June 5, 1946,(6) Speaker Sam Rayburn, of Texas, made a statement regarding the Chair's authority to hold that motions are dilatory.

The Speaker: On this roll call 260 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

The Speaker: This is Calendar Wednesday.

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rankin: Mr. Speaker, I want to know whether these bills to be called on Calendar Wednesday are to be considered in the House as in Committee of the Whole?

Mr. [Dan R.] McGehee [of Mississippi]: Mr. Speaker, I make the point of order there is not a quorum present.

The Speaker: There has been no business transacted as yet. The Clerk will call the committees.

The Clerk: The Committee on Banking and Currency.

Mr. McGehee: Mr. Speaker, I make the point of order there is not a quorum present.

Mr. [Frank B.] Keefe [of Wisconsin]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Keefe: Mr. Speaker, I make the point of order that the point of order raised by the gentleman from Mississippi is purely dilatory. Under section 10, rule XVI of the House, the Chair having just announced that a quorum is present, it is obvious that the point of order made by the gentleman from Mississippi is a purely dilatory motion and should not under the rules of the House be entertained by the Speaker.

Mr. McGehee: Mr. Speaker, in my opinion it does not lie within the province of any Member of the House to criticize or impugn the motive of any

---

6. 92 Cong. Rec. 6352, 6353, 79th Cong. 2d Sess.

other Member when he makes a point of order in connection with any procedure on the floor of the House. Important legislation is contemplated being taken up and I observe on the floor at present that evidently there is not a quorum present and I therefore make the point of order that a quorum is not present.

THE SPEAKER: The Chair, of course, has the right under certain circumstances to hold that motions are dilatory but a point of no quorum is a question of very high privilege. The Chair will not state what he will do at other times. The gentleman makes the point of order that a quorum is not present. The Chair will count. [After counting.] One hundred and thirty-three Members are present; not a quorum.

§ 14.5 The Speaker overruled a point of order that a Member making a point of order that a quorum was not present was exercising a dilatory tactic.

On Jan. 23, 1950,(7) during consideration of House Resolution 217, which provided for consideration of H.R. 331, to extend statehood to Alaska, Speaker Sam Rayburn, of Texas, ruled on a point of order of dilatoriness.(8)

MR. [GEORGE W.] ANDREWS [of Alabama]: Mr. Speaker, I make the point of order that a quorum is not present.

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, I make the point of order that the gentleman's point of order is dilatory.

THE SPEAKER: The Chair overrules the point of order made by the gentleman from Illinois.

The Chair will count. [After counting.] Two hundred and twenty-four Members are present, a quorum.

§ 14.6 Insistence by a Member on the presence of a quorum on the floor, evidenced by repeated points of no quorum, was held not to be dilatory where a quorum was in fact not present; and the Speaker refused to find that such points of order were designed to deliberately delay public business.

On July 23, 1942,(9) during consideration of House Resolution 528 and H.R. 7416, which provided for absentee voting by members of the armed forces, Speaker Sam Rayburn, of Texas, rejected a point of dilatoriness.

MR. [JOHN E.] RANKIN of Mississippi: Mr. Speaker, I make the point of order that there is no quorum present. If we are to discuss this matter I think a quorum should be present.

---

7. 96 CONG. REC. 774, 81st Cong. 2d Sess.

8. See also, for example, 92 CONG. REC. 6352–56, 79th Cong. 2d Sess., June 5, 1946.

9. 88 CONG. REC. 6543, 77th Cong. 2d Sess.

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, I make the point of order that the gentleman from Mississippi has clearly evidenced the fact that he is filibustering, and that his only object in pursuing the tactics he is pursuing is to delay the passage of the Ramsay bill, to which he objects. It surely must be apparent to the Speaker that these quorum calls are for the sole purpose of delay. Therefore the action of the gentleman from Mississippi is dilatory and out of order.

Mr. Rankin of Mississippi rose.

THE SPEAKER: The Chair trusts that he will never be called upon to make a ruling that a Member is deliberately delaying public business. There is a quorum in town. I think the gentleman from Mississippi, for the moment, at least, is within his rights in asking that a quorum be present.

The Chair will count. [After counting.] Evidently there is no quorum present.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

Points of No Quorum After Intervening Business

§ 14.7 The point of order that a quorum was not present was held not to be dilatory; the Speaker noted that business had intervened in that unanimous-consent requests had been granted following the last quorum call, and that Members were entitled to have a quorum present to have business transacted in the regular way.

On Apr. 24, 1956,(10) while Mr. Carl Vinson, of Georgia, spoke under a special-order agreement, Speaker Sam Rayburn, of Texas, refused to hold dilatory a point of no quorum.

MR. [JAMES C.] DAVIS [of Georgia]: The gentleman is making a great speech and I think it should be heard by the entire membership. Mr. Speaker, I insist on my point of order.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: Two hundred and ninety-two Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

MR. [JOHN W.] HESELTON [of Massachusetts]: Mr. Speaker, I ask unanimous consent that I may be permitted to have 2 days to file minority views with respect to H.R. 8901, the District of Columbia transit bill.

THE SPEAKER: Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MR. VINSON: Mr. Speaker, as I said just before the quorum call, I

---

10. 102 CONG. REC. 6889, 6891, 84th Cong. 2d Sess.

refer specifically to the decision of the Supreme Court of May 17, 1954. . . .

Mr. [John Bell] Williams [of Mississippi]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state his point of order.

Mr. Williams of Mississippi: Mr. Speaker, I make the point of order that a quorum is not present.

Mr. [Sidney R.] Yates [of Illinois]: Mr. Speaker, I object to the point of order.

Mr. Vinson: Will the gentleman not withhold that? I have only about 5 minutes.

Mr. Williams of Mississippi: Mr. Speaker, I withdraw the point of order.

Mr. Vinson: Mr. Speaker, I deny with all the power of my being the naive presumption that the Constitution of the United States is nothing more than what the Supreme Court says it is. . . .

Mr. [William M.] Colmer [of Mississippi]: Mr. Speaker, the gentleman is making a very sound statement here and I make the point of order that a quorum is not present.

Mr. Yates: Mr. Speaker, may I be heard on the point of order?

The Speaker: The point of order that a quorum is not present is not debatable.

Mr. Yates: Since the last point of order on a quorum there has been no further transaction of business, and it is obvious that the points of order being made are dilatory.

The Speaker: There were various unanimous-consent requests granted since the last call of the House. The Chair has been up against this question of whether there was a filibuster or whether there was not a great many times. This occupant of the Chair is very liberal with Members who want a quorum present or to have business transacted in the regular way. The Chair is not going to hold that this point of order is dilatory.

§ 14.8 Precedents of the House which indicate that the Chair has held a point of no quorum to be dilatory when it immediately follows a call of the House which discloses the presence of a quorum are not applicable to the situation where there is "intervening business" between the establishment of the quorum and the making of the point of no quorum; the correction of a roll call, by unanimous consent, is such "business" as will prevent the Chair from holding the point of order to be dilatory on its face.

On Oct. 8, 1968,(11) Speaker pro tempore Carl Albert, of Oklahoma, ruled on a question of dilatoriness.

Mr. [John M.] Ashbrook [of Ohio]: Mr. Speaker, I make the point of order that a quorum is not present.

The Speaker Pro Tempore: The gentleman from Ohio makes the point of order that a quorum is not present.

Mr. [Brock] Adams [of Washington]: A point of order, Mr. Speaker. There has been no intervening business since the rollcall on the resolution which indicated a quorum.

---

(11) 114 Cong. Rec. 30224, 90th Cong. 2d Sess. Calendar day of Oct. 9.

The Speaker Pro Tempore: The Chair will state that the gentleman is in error, since we have had a correction of a rollcall.

The gentleman from Ohio makes the point of order that a quorum is not present. Evidently a quorum is not present.

Mr. [Wilbur D.] Mills [of Arkansas]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

When Points of No Quorum Not Entertained

§ 14.9 Repeated points of no quorum may be held to be dilatory in the Committee of the Whole if, after the Chair has once counted and found a quorum present, it appears to him that further points of order are without foundation.

On Dec. 30, 1932,[12] during consideration of H.R. 13872, the Department of Agriculture appropriation bill, Chairman Andrew J. Montague, of Virginia, held that a point of no quroum was dilatory.

Mr. [Leonidas C.] Dyer [of Missouri]: Mr. Chairman, I make the point of order there is not a quorum present.

The Chairman: The Chair will count. [After counting.] One hundred and five are present, a quorum.

Mr. [Miles C.] Allgood [of Alabama]: Mr. Chairman, I ask unanimous consent to return to page 52, line 23, for the purpose of offering an important amendment.

Mr. [James P.] Buchanan [of Texas]: Mr. Chairman, I object.

Mr. Allgood: Mr. Chairman, I make the point of order that there is not a quorum present.

Mr. [Fiorello H.] LaGuardia [of New York]: Mr. Chairman, that point of order is dilatory, because the Chair has just counted and found a quorum present.

The Chairman: The Chair has counted a quorum and will not entertain the point of order raised by the gentleman from Alabama.

Mr. Allgood: But the Members who were in the Chamber when the Chair counted a quorum have returned to the cloakroom.

The Chairman: The Chair believes a quorum is still present. The Clerk will read.

§ 14.10 The Speaker may decline to entertain a point of no quorum after the House has voted to resolve itself into the Committee of the Whole and while the Speaker is in the process of leaving the chair.

On Apr. 14, 1937,[13] the House was proceeding with the call of committees under the Calendar Wednesday rule. The House having voted to consider a bill, Speaker William B. Bankhead, of Alabama, refused to entertain a point of order that a quorum was not present made after his announcement that the House had resolved itself into Committee of the Whole but before he had vacated the chair.

---

[12] 76 Cong. Rec. 1123, 72d Cong. 2d Sess.

[13] 81 Cong. Rec. 3455, 3456, 75th Cong. 1st Sess.

The yeas and nays were ordered.

THE SPEAKER: The question is, Will the House consider the bill (H.R. 1668) to amend paragraph (1) of section 4 of the Interstate Commerce Act, as amended February 28, 1920 (U.S.C., title 49, sec. 4)?

The question was taken; and there were—yeas 278, nays 97, answered "present" 1, not voting 54, as follows: . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The House automatically resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the bill.

MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Speaker, I make the point of order there is not a quorum present.

THE SPEAKER: The Chair feels compelled to overrule the point of order, as the recent vote discloses a quorum is present.

§ 14.11 The Speaker held as dilatory a point of no quorum made immediately after a yea and nay vote which disclosed a quorum present where the only event intervening between announcement of the vote and the point of no quorum was the receipt of a message.

On July 21, 1947,(14) Speaker Sam Rayburn, of Texas, ruled on a point of no quorum.

MR. [TOM] PICKETT [of Texas]: Mr. Speaker, I move that the House do now adjourn. . . .

The yeas and nays were ordered.

The question was taken; and there were—yeas 85, nays 299, not voting 46, as follows: . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The gentleman from New York [Mr. Gamble] is recognized.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: Mr. Speaker, I notice there is a message here from the President. Do we not receive them when they come in?

THE SPEAKER: The Chair was about to suspend for a moment to receive a message.

[A message in writing from the President of the United States was announced and received.]

MR. RANKIN: Mr. Speaker, I make the point of order there is not a quorum present.

---

14. 93 CONG. REC. 9523, 9524, 80th Cong. 1st Sess.

THE SPEAKER: The gentleman's point of order is dilatory. That is obvious to all Members.

§ 14.12 After stating that, ". . . he [the Speaker] has yet to hold a motion to be dilatory, and will not until it becomes obvious to everybody that dilatory tactics are being indulged in and that a filibuster is being conducted," the Speaker declined to recognize a point of no quorum immediately after a vote by yeas and nays which disclosed that 362 Members were present.

On July 25, 1949,(15) Speaker Sam Rayburn, of Texas, refused to recognize a point of no quorum.

MR. [ROBERT L. F.] SIKES [of Florida]: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The gentleman from Florida moves that the House do now adjourn.

The Chair desires to make a statement. Since the present Speaker has occupied the chair he has yet to hold a motion to be dilatory, and will not until it becomes obvious to everybody that dilatory tactics are being indulged in and that a filibuster is being conducted.

The question is on the motion to adjourn.

MR. SIKES: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The Clerk called the roll; and there were—yeas 110, nays 252, not voting 70, as follows: . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The question is on agreeing to the resolution.

MR. [TOM] PICKETT [of Texas]: Mr. Speaker, I make a point of order that a quorum is not present.

THE SPEAKER: The roll call just disclosed that there were 362 Members present, quite a substantial quorum.

§ 14.13 The Speaker, being satisfied that a quorum was present and that a point of no quorum was made for dilatory purposes, declined to entertain it and allowed debate to proceed without taking time to count the House.

On June 3, 1960,(1) Speaker Sam Rayburn, of Texas, refused to entertain a point of no quorum where more than the number necessary to make a quorum had just responded on a yea and nay vote on a motion to adjourn.

THE SPEAKER: The question is on the motion to adjourn.

MR. [JOHN JAMES] FLYNT [Jr., of Georgia]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there

---

15. 95 CONG. REC. 10095, 10096, 81st Cong. 1st Sess.

1. 106 CONG. REC. 11829, 86th Cong. 2d Sess.

were—yeas 77, nays 195, not voting 159. . . .

So the motion to adjourn was rejected. . . .

The result of the vote was announced as above recorded.

The Speaker: Under previous order of the House, the gentleman from California [Mr. Holifield] is recognized for 60 minutes.

Mr. [Carroll D.] Kearns [of Pennsylvania]: Mr. Speaker, will the gentleman yield?

Mr. [Chet] Holifield: I yield to the gentleman from Pennsylvania.

Mr. Kearns: Mr. Speaker, I make the point of order that there is no quorum present.

The Speaker: The roll was called only 1 minute ago and a quorum was present. A quorum is present.

The gentleman from California.

§ 14.14 After he counted a quorum and a quorum failed to vote on an amendment immediately thereafter, the Speaker in reply to a point of order ruled that a quorum remained present at the time of the division vote and the Chair was not responsible if all Members did not vote.

On Apr. 2, 1943,(2) after a vote held during consideration of H.R. 2087, the War Security Act, Speaker Sam Rayburn, of Texas, rejected a point of no quorum.

Mr. [Clare E.] Hoffman [of Michigan]: Mr. Speaker, I make the point of order that a quorum is not present.

The Speaker: The Chair will count. [After counting.] Two hundred and nineteen Members are present, a quorum.

The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken; and the Chair being in doubt, the House divided, and there were—ayes 62, noes 112.

Mr. [Harry] Sauthoff [of Wisconsin]: Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The Speaker: The Chair has just counted, and a quorum was present. The Chair is not responsible if all Members in the House do not vote. The Chair must hold that a quorum is present.

So the amendment was rejected.

§ 14.15 Where the House ordered the doors of the Chamber locked until establishment of a quorum and disposition of pending business, the Chair indicated that after a quorum was present in the Chamber further points of no quorum would be dilatory until the business was completed and the doors opened.

On the legislative day of Oct. 8, 1968,(3) during consideration of Senate Joint Resolution 175, to suspend the equal-time requirement of the Communications Act of 1934, for candidates for President and Vice President, Speaker John W. McCormack, of Massachusetts, made a statement as to assuming the presence of a quorum when the doors were locked to prevent exit of Members.

---

(2) 89 Cong. Rec. 2886, 78th Cong. 1st Sess.

(3) 114 Cong. Rec. 30213, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Gerald R. Ford: Let me repeat the language of the motion of the gentleman from Washington:

> That a motion be made for the majority here that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.

Mr. Speaker, I respectfully argue that in the language used by the gentleman from Washington in the motion that he made, he says very specifically and very categorically that those who are not here are the ones who must be kept in the Chamber.

Mr. [John D.] Dingell [of Michigan]: Mr. Speaker, I demand the regular order.

The Speaker: The regular order is that the gentleman is making a parliamentary inquiry.

Mr. Gerald R. Ford: And I am indicating, Mr. Speaker, in my parliamentary inquiry, that the doors to the Chamber shall not be closed to those Members who were here at the time of the call for the quorum.

The Speaker: The Chair, in response to the parliamentary inquiry of the distinguished minority leader, feels, in construing the motion, that a part of the construction is the happenings of the last 10 or 12 or more hours and the intent and purpose of the gentleman from Washington in making the motion.

It seems to the Chair, in response to the parliamentary inquiry—and the Chair makes such a response—that the motion offered by the gentleman from Washington [Mr. Adams] meant that any Member who answered the last quorum call cannot leave the Chamber until the pending business has been disposed of; and the doors will be kept closed.

The Chair might observe in relation to any future points of order that a quorum is not present that apparently a quorum is present because the last one disclosed 222 Members and the Chair is justified in assuming that the 222 Members are still here. The doors will remain locked until the present business is disposed of.

§ 14.16 The Speaker has refused to entertain a point of no quorum where a quorum had just been established by a call of the House and where no further business had been transacted.

On Jan. 22, 1971,[4] Speaker Carl

---

[4] 117 Cong. Rec. 131, 92d Cong. 1st Sess.

Albert, of Oklahoma, refused to entertain a point of no quorum.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

MR. [DONALD W.] RIEGLE [Jr., of Michigan]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. CHARLES H. WILSON [of California]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this rollcall 373 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE SPEAKER: The Clerk will proceed with the reading of the Journal.

MR. [JAMES C.] CLEVELAND [of New Hampshire]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: A quorum has just been established. There has been no business transacted.

The Clerk will proceed with the reading of the Journal.

§ 14.17 Where a quorum has been established on a call of the House and the Chair then lays a message before the House, a further point of no quorum is not entertained before the message is read by the Clerk or other business is transacted.

On Apr. 21, 1971,[5] Speaker Carl Albert, of Oklahoma, ruled on the timeliness of a point of no quorum raised after a message was received but before it was read.[6]

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [THOMAS P.] O'NEILL [of Massachusetts]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this rollcall 334 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with. . . .

THE SPEAKER: The Chair lays before the House the following message from the President of the United States:

---

[5] 117 CONG. REC. 11095, 11096, 92d Cong. 1st Sess.

[6] See supplements to this edition for discussion of provisions in Rule XV clause 6 added by the 93d Congress on Apr. 9, 1974, to the effect that a point of no quorum may not be made or entertained during the reception of any message from the President or the Senate.

MR. JACOBS: Mr. Speaker, I make a point of order that a quorum is not present.

THE SPEAKER: A rollcall just disclosed the presence of a quorum.

MR. JACOBS: I make the point of order that a quorum is not present, Mr. Speaker, obviously not.

THE SPEAKER: The Chair advises the gentleman that a quorum has just been established and no business has transpired.

MR. JACOBS: At the moment I make a point of order that a quorum is not present.

THE SPEAKER: The gentleman's point of order is out of order.

§ 15. Proceedings Pending Call of House in Absence of Quorum

Because the point of no quorum is not debatable,(7) no Member may be heard on it and subsequent remarks should not be included in the *Congressional Record.*(8) However, the Speaker may entertain points of order which relate to the pending call of the House.(9) Although the Chair may decline to recognize a Member for a parliamentary inquiry when a point of no quorum has been made,(10) or absence of a quorum has been announced(11) he has entertained inquiries during a roll call vote to explain procedures available if a quorum fails to appear,(12) or to clarify the nature of the pending question.(13)

In General; Debate

§ 15.1 The point of order that a quorum is not present is not debatable.

On Apr. 24, 1956,(1) Speaker Sam Rayburn, of Texas, ruled on a request to be heard on a point of no quorum.

> MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, the gentleman is making a very sound statement here and I make the point of order that a quorum is not present.
>
> MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, may I be heard on the point of order?
>
> THE SPEAKER: The point of order that a quorum is not present is not debatable.

§ 15.2 Because a point of order that a quorum is not present is not debatable, remarks by the proponent after the point is raised

---

7. §§ 15.1, 15.2, infra.
8. § 15.2, infra.
9. § 15.3, infra.
10. § 15.4, infra.
11. § 15.5, infra.
12. § 15.6, infra.
13. § 15.7, infra.
1. 102 CONG. REC. 6891, 84th Cong. 2d Sess.

should not be included in the Record.

On Apr. 15, 1940,[2] Speaker pro tempore Sam Rayburn, of Texas, answered a parliamentary inquiry, as follows:

MR. [JOHN] TABER [of New York]: Mr. Speaker——

THE SPEAKER PRO TEMPORE: For what purpose does the gentleman from New York rise?

MR. TABER: A question of the privileges of the House and of the Record.

THE SPEAKER PRO TEMPORE: The gentleman from New York.

MR. TABER: Mr. Speaker, a little while ago the gentleman from Mississippi [Mr. Rankin] made a point of order that no quorum was present, and thereafter he said:

> You are not going to raid the veterans of the World War and pass these other pension bills and run over the House that way. I make the point of order there is no quorum present.

Now, the gentleman was not recognized for that purpose; and then thereafter the gentleman from Mississippi further stated:

> And there will be a quorum and a vote on every other bill from now on today.

The gentleman was not recognized for that purpose, and that should not be in the Record. I make the point of order that that language should not be contained in the Record.

THE SPEAKER PRO TEMPORE: The gentleman from New York makes the point of order that certain remarks made in the House should not be included in the Record. The Chair is prepared to rule.

Under the rules of the House, remarks should only be included in the Record that are made in order. After a point of order is made, which is not debatable, any further remarks should not be included in the Record. Therefore the Chair rules that any remarks that may have been made after the point of order that a quorum was not present was made should not be included in the Record.

Points of Order

§ 15.3 While a parliamentary inquiry is normally not entertained by the Chair in the absence of a quorum, the Chair may recognize a Member on an inquiry or on a point of order which relates to the pending call of the House.

On Oct. 8, 1958,[3] Speaker John W. McCormack, of Massachusetts, entertained a point of order.

MR. [DONALD] RUMSFELD [of Illinois]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE:[4] The Chair will count.

---

[2] 86 CONG. REC. 4517, 76th Cong. 3d Sess.

[3] 114 CONG. REC. 30093, 90th Cong. 2d Sess.

[4] Wilbur D. Mills (Ark.).

One hundred sixty-seven Members are present, not a quorum.

Mr. [John H.] Dent [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: A parliamentary inquiry cannot be asked at this time.

Mr. [John J.] McFall [of California]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Speaker: The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

Mr. Dent: Mr. Speaker, a point of order, which relates to the call of the roll.

The Speaker: The House will be in order. The Clerk will proceed with the call of the roll.

Mr. Dent: Mr. Speaker, the point of order relates to the proper calling of the roll.

The Speaker: The gentleman will state his point of order.

Mr. Dent: The point of order is the doors were ordered closed, and the doors to the outside of the Chamber are open in the cloakrooms.

The Speaker: The Chair has given instructions to close all doors and allow no Members out.

Parliamentarian's Note: The peaker ordered the doors locked luring roll call Nos. 382 and 383. Vhen this remedy did not prove ffective, since Members continued o leave the Chamber immediately fter the calls were dispensed with, he did not continue to enforce the rule.

Parliamentary Inquiries

§ 15.4 The Chair has declined to recognize a Member to propound a parliamentary inquiry when a point of no quorum has been made unless it is withdrawn.

On July 23, 1942,(5) Speaker Sam Rayburn, of Texas, refused to recognize a Member.

> Mr. [Wright] Patman [of Texas]: Mr. Speaker, I make the point of order that a quorum is not present.
>
> Mr. [Adolph J.] Sabath [of Illinois]: Mr. Speaker, may I ask unanimous consent that we call up a resolution?
>
> Mr. Patman: Mr. Speaker, I make the point of order that a quorum is not present.
>
> Mr. [Earl C.] Michener [of Michigan]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The Chair doubts the authority of the Chair to recognize the gentleman to propound a parliamentary inquiry when a point of order is made, unless the gentleman from Texas withholds it.

Parliamentarian's Note: The Chair may, in his discretion, entertain parliamentary inquiries pend-

---

5. 88 Cong. Rec. 6540, 77th Cong. 2d Sess.

ing his announcement of his count for a quorum, but after the absence of a quorum has been disclosed, the Chair then only responds to inquiries relating to the call of the House.

§ 15.5 The Chair refuses to recognize a Member for a parliamentary inquiry after the absence of a quorum has been announced.

On June 3, 1964,[6] Speaker pro tempore Carl Albert, of Oklahoma, refused to recognize a Member for a parliamentary inquiry.[7]

Mr. [Wayne L.] Hays [of Ohio]: Mr. Speaker, I make the point of order that a quorum is not present.

The Speaker Pro Tempore: The Chair will count. [After counting.] There are 159 Members present; not a quorum.

Mr. [Hale] Boggs [of Louisiana]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

Mr. [Paul C.] Jones of Missouri: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: No parliamentary inquiry can be made.

Mr. Jones of Missouri: I can make a parliamentary inquiry; certainly.

The Speaker Pro Tempore: A quorum is not present. A call of the House has been ordered. The gentleman cannot make his parliamentary inquiry in the absence of a quorum.

The Clerk will call the roll.

§ 15.6 The Speaker recognized Members to propound parliamentary inquiries during a roll call vote, a quorum as yet not having responded, but made it clear that such recognition was not to be considered a precedent.

On Oct. 18, 1966,[8] during a roll call vote on House Resolution 1062, relating to the refusal of Jeremiah Stamler to testify before the Committee on Un-American Activities, Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries before the result of the vote was announced.

Mr. [John Bell] Williams [of Mississippi]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker: The Chair will count. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 174, nays 37, not voting 221, as follows: . . .

Mr. [Sidney R.] Yates [of Illinois] (interrupting the rollcall): Regular order. . . .

---

[6] 110 Cong. Rec. 12521, 88th Cong. 2d Sess.

[7] See also 110 Cong. Rec. 7353–55, 88th Cong. 2d Sess., Apr. 9, 1964.

[8] 112 Cong. Rec. 27512, 27513, 89th Cong. 2d Sess.

Mr. [John H.] Dent [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Dent: Am I correct that if we do not have a quorum present on the vote, tomorrow the first order of business will be a vote on the same question?

The Speaker: Exactly.

Mr. Dent: Then I would advise those Members who are hiding to come out and vote.

Mr. [Charles L.] Weltner [of Georgia]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Weltner: Mr. Speaker, in the event that the result of the vote is announced and it appears that less than a quorum, or less than 218 Members, have voted, and unanimous consent is not given to dispense with further proceedings under the call, am I correct in understanding that the Sergeant at Arms will then be under an obligation to produce the nonvoting Members?

The Speaker: The Chair will state, in response to the inquiry, that if a quorum is not present one of two alternatives remain; one, to adjourn the House, and the other, to instruct the Sergeant at Arms.

The Chair wants to state, frankly, the Chair would not instruct the Sergeant at Arms.

The Chair might state that recognizing Members for parliamentary inquiries at this stage is not to be considered as a precedent in the future.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Hall: In the event of the stipulations made by the Speaker as to whom he would recognize and not recognize, if further proceedings under the call of the House are not dispensed with, would it not be automatic that the Sergeant at Arms would be instructed by the Speaker to enjoin a quorum in the House?

The Speaker: The Chair will state that this is an automatic rollcall on the adoption of the resolution. The question of dispensing with further proceedings under the call would not be involved.

In answer to the second part of the gentleman's inquiry, that would not automatically follow.

Mr. Hall: I thank the Speaker.

Mr. [Leslie C] Arends [of Illinois]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Arends: If it should happen that a quorum does not develop tonight, the unfinished business tomorrow would be the retaking of this same vote?

The Speaker: Exactly. That would be the first order of business.

§ 15.7 Following completion of the first call of the roll, the Speaker responded to parliamentary inquiries and clarified the nature and effect of the question upon which the House was then voting.

On Oct. 12, 1962,[9] Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries.

> THE SPEAKER: The gentleman from Missouri makes the point of order that a quorum is not present and objects to the vote on the ground that a quorum is not present.
>
> The Chair will count.
>
> Evidently a quorum is not present.
>
> The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.
>
> The question was taken; and there were—yeas 84, nays 120, not voting 230, as follows: . . .
>
> (After completion of first call of the roll:)
>
> MR. [WILLIAM H.] AVERY [of Kansas]: Mr. Speaker——
>
> THE SPEAKER: For what purpose does the gentleman from Kansas rise?
>
> MR. AVERY: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. AVERY: What motion is the House presently voting on?
>
> THE SPEAKER: The Chair will state that the parliamentary inquiry is very pertinent. The Chair will state in response that the House is voting on a motion which was made by the gentleman from Missouri [Mr. Cannon] to recede and concur in a Senate amendment, with an amendment.
>
> MR. [CLARENCE] CANNON. Mr. Speaker, my motion was for the previous question.
>
> THE SPEAKER: The House is voting on a motion made by the gentleman from Missouri to recede and concur in the Senate amendment, with an amendment.
>
> That is the motion pending at the present time.
>
> The Clerk will proceed to call the roll of those Members who failed to answer on the first rollcall.
>
> (The Clerk resumed calling the roll.)
>
> MR. [WILLIAM C.] CRAMER [of Florida]: (interrupting call of the roll): Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state his parliamentary inquiry.
>
> MR. CRAMER: Mr. Speaker, do I understand the parliamentary situation to be that the motion now being voted upon is a motion to recede and concur in a Senate amendment with an amendment, and a vote "no" is a vote for $205,000 for the Florida Cross-State Barge Canal planning, and a vote of "aye" is against it?
>
> THE SPEAKER: The Chair has already stated that the parliamentary inquiry is correct in response to the inquiry of the gentleman from Kansas [Mr. Avery]. The Chair is confident that Members know what they are voting upon.
>
> (The Clerk resumed calling the roll.)

§ 16. In the Committee of the Whole

In the Committee of the Whole a point of order that a quorum is not present is in order, but an objection to a vote on the ground that a quorum is not present is not in order.[10] A recorded vote in the Committee of the Whole may be ordered by 25 or more Members.[11]

---

[9] 108 CONG. REC. 23433, 87th Cong. 2d Sess.

Provisions of the rules relating to quorum requirements in the Committee of the Whole adopted in the 93d Congress on Apr. 9, 1974, will be discussed in detail in supplements to this edition. Briefly, these provisions authorize the Chairman of the Committee of the Whole, at any time during a quorum call, to declare that a quorum is constituted when he determines that a quorum is present. Proceedings under the call, in such instances, are considered vacated. The new rule also incorporates the preexisting precedents to the effect that a quorum is not required in the Committee of the Whole for agreement to a motion that the Committee rise. Furthermore, it is stated that a point of order that a quorum is not present may not be made or entertained after the presence of a quorum is once ascertained during the period after a Committee of the Whole has risen after completing consideration of a bill or resolution and before the Chairman has reported the measure back to the House.

Rule XXIII clause 2 was also amended in the 95th[12] and 96th[13] Congresses to limit the right to make a point of no quorum during general debate in Committee of the Whole. Under the later practice, a point of no quorum is a matter of right each day only once during five-minute debate, and then again only when a question is put on an amendment or motion. In the 97th[1] Congress, the rule was further amended to allow the Chairman the discretion whether or not to entertain a point of order of no quorum during general debate only.

When in Order

§ 16.1 In the Committee of the Whole, a point of order that a quorum is not present will lie; but objection will not lie to a vote on the ground that a quorum is not present.

---

[10] § 16.1 and §16.4, infra.

[11] See Rule XXIII clause 2(b), *House Rules and Manual* (1979).

See also § 7, supra, for a discussion of the call in the Committee.

[12] H. Res. 5, 123 Cong. Rec. 53–70, 95th Cong. 1st Sess., Jan. 4, 1977.

[13] H. Res. 5, 125 Cong. Rec. ——, 96th Cong. 1st Sess., Jan. 15, 1979.

[1] H. Res. 5, 127 Cong. Rec. ——, 97th Cong. 1st Sess., Jan. 5, 1981.

On Dec. 17, 1970,(2) during consideration of H.R. 19446, the Emergency School Aid Act of 1970, Chairman James C. Corman, of California, after entertaining a point of order that a quorum was not present refused to entertain an objection to a vote on the ground that a quorum was not present.

Mr. [Roman C.] Pucinski [of Illinois]: Mr. Chairman, I move that all debate on this amendment end in the next 3 minutes.

Mr. [James A.] Haley [of Florida]: Mr. Chairman, I make a point of order.

The Chairman: The gentleman will state it.

Mr. Haley: Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman: The Chair will count.

Mr. [William L.] Clay [of Missouri]: Mr. Chairman, I move that the committee do now rise.

The Chairman: The question is on the motion of the gentleman from Missouri.

The question was taken; and the Chairman announced that the ayes had it.

Mr. Pucinski: Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Chairman: The gentleman's point of order is not in order in the Committee of the Whole.

Mr. Pucinski: Mr. Chairman, I demand tellers.

The Chairman: Tellers are demanded. Those in favor of taking the vote on the motion to rise by tellers will rise and remain standing until counted.

An insufficient number have arisen. Tellers are not ordered.

Mr. Pucinski: Mr. Chairman, I make a point of order against that ruling in that a quorum is not present. The Chair ruled there is an insufficient number that have arisen for tellers. I challenge that ruling on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Chairman: The Chair will advise the gentleman from Illinois again that his point of order is not in order.

The motion to rise was agreed to.

Automatic Roll Call

§ 16.2 Although a point of no quorum raised between a division and a teller vote is in order in the Committee of the Whole, it does not bring about an automatic call even though a quorum is not present.

On Aug. 21, 1950,(3) during consideration in the Committee of the Whole of H.R. 9313, a bill to amend

---

2. 116 Cong. Rec. 42232, 42233, 91st Cong. 2d Sess.

3. 96 Cong. Rec. 12960, 12961, 81st Cong. 2d Sess.

the Agricultural Act of 1949, an objection to the vote was raised.

THE CHAIRMAN:[4] The question is on the amendment offered by the gentleman from Georgia [Mr. Davis].

The question was taken; and on a division (demanded by Mr. Davis of Georgia) there were ayes 21, noes 28.

MR. [JAMES C.] DAVIS of Georgia: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. DAVIS of Georgia: Mr. Chairman, I demand tellers.

THE CHAIRMAN: The gentleman withdraws his point of order that a quorum is not present?

MR. DAVIS of Georgia: I do not withdraw it. A parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. DAVIS of Georgia: Was my point of order that a quorum is not present in order?

THE CHAIRMAN: The gentleman can make the point of order that a quorum is not present.

MR. DAVIS of Georgia: Mr. Chairman, I make that point of order, then.

THE CHAIRMAN: The Chair will count.

MR. DAVIS of Georgia: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. DAVIS of Georgia: Mr. Chairman, if I insist on the point of order, will I then have an opportunity to have a roll-call vote on this question?

THE CHAIRMAN: Not in Committee of the Whole, no.

§ 16.3 An objection to a division vote on the motion to rise decided in the negative in the Committee of the Whole on the ground that a quorum is not present does not precipitate an automatic roll call on the pending question but merely requires the Chair to count the Committee for a quorum.

On May 26, 1955,[5] the Chairman of the Committee of the Whole, Prince H. Preston, Jr., of Georgia, made a ruling regarding an objection to a vote.

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Chairman, I offer a privileged motion.

The Clerk read as follows:

Mr. H. Carl Andersen moves that the Committee do now rise.

THE CHAIRMAN: The question is on the motion.

The question was taken; and on a division (demanded by Mr. H. Carl Andersen) there were—ayes 7, noes 56.

So the motion was rejected.

MR. H. CARL ANDERSEN: Mr. Chairman, I object to the vote on the ground that a quorum is not present.

THE CHAIRMAN: The Chair will state that that does not bring on an automatic roll call. The Chair will count to determine whether a quorum is present.

---

[4] Carl T. Durham (N.C.).

[5] 101 CONG. REC. 7149, 84th Cong. 1st Sess.

[After counting.] One hundred and eleven Members are present, a quorum.

§ 16.4 Because the provisions of Rule XV clause 4,[6] which permit a Member to object to a vote where a quorum is not present, are applicable only in the House, an automatic roll call is not in order in the Committee of the Whole.

On June 7, 1973,[7] during consideration of H.R. 7446, to establish the American Revolution Bicentennial Administration, Chairman Henry B. Gonzalez, of Texas, clarified the procedures admissible in the Committee of the Whole.[8]

THE CHAIRMAN: The question is on the amendments offered by the gentleman from Pennsylvania (Mr. Williams).

The question was taken; and the Chairman announced that the noes appeared to have it.

MR. [LAWRENCE G.] WILLIAMS: Mr. Chairman, I demand a recorded vote.

THE CHAIRMAN: A recorded vote has been demanded.

MR. WILLIAMS: Mr. Chairman, I withdraw that. I make the point of order that a quorum is not present, and I object to the vote on that basis.

THE CHAIRMAN: The Chair advises the gentleman from Pennsylvania that that procedure is not in order in the Committee of the Whole.

MR. WILLIAMS: Mr. Chairman, I make a point of order. I object to the vote on the ground that a quorum is not present, and I request a rollcall vote.

I can object to the vote on the grounds that a quorum is not present, and insist on my point of order.

THE CHAIRMAN: Not in the Committee of the Whole, the Chair wishes to advise.

The gentleman may be advised that he may wish to raise a point of order that a quorum is not present.

MR. WILLIAMS: That is exactly what I have done.

THE CHAIRMAN: But the gentleman must be advised that during proceedings of the Committee of the Whole, an automatic vote is not a proper request.

MR. WILLIAMS: Mr. Chairman, I make a point of order against the vote previously taken on the basis that a quorum is not present.

THE CHAIRMAN: The gentleman from Pennsylvania raises the point of order that a quorum is not present. Is that what the gentleman wishes?

MR. WILLIAMS: No. I demand a recorded vote.

THE CHAIRMAN: The Chair will remind the gentleman from Pennsylvania that that demand has been withdrawn.

MR. WILLIAMS: I did withdraw it before. I am now requesting a recorded vote.

THE CHAIRMAN: The gentleman from

---

[6] *House Rules and Manual* § 773 (1979).

[7] 119 CONG. REC. 18521, 93d Cong. 1st Sess.

[8] See also 117 CONG. REC. 40054, 92d Cong. 1st Sess., Nov. 9, 1971; and 116 CONG. REC. 42232, 42233, 91st Cong. 2d Sess., Dec. 17, 1970.

Pennsylvania now demands a recorded vote on his amendments.

A recorded vote was refused.

So the amendments were rejected.

Pending Demand for Tellers

§ 16.5 A point of no quorum in the Committee of the Whole is in order while a demand for tellers is pending.

On Mar. 23, 1970,(9) Chairman William J. B. Dorn, of South Carolina, ordered a quorum call in response to a point of no quorum.

The Chairman: The question is on the motion offered by the gentleman from New York (Mr. Koch).

The question was taken; and on a division (demanded by Mr. Koch), there were—ayes 10, noes 50.

Mr. [Edward I.] Koch: Mr. Chairman, I demand tellers.

Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman: The Chair will count.

Evidently a quorum is not present. The Clerk will call the roll. . . .

Mr. [F. Edward] Hébert [of Louisiana]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Hébert: Mr. Chairman, is it in order to call for a quorum when a call for a teller vote is asked for and should be in progress at that moment—you cannot interrupt a vote.

The Chairman: The Chair will state that the gentleman from New York made the point that a quorum was not present.

Mr. Hébert: No, no—the Record will show that he asked for a teller vote and then asked for a quorum.

The Chairman: It is the understanding of the Chair that the gentleman asked for a teller vote and then made the point of order that a quorum was not present.

Mr. Hébert: That is it—when he asked for a teller vote, he asked for a vote to be taken and that vote comes automatically. Having made that motion, he cannot get the other.

The Chairman: The Chair will advise the distinguished gentleman from Louisiana that the Committee cannot do business without a quorum, and since it has been established a quorum is not present, the Chair has directed the Clerk to call the roll.

Pending Motion to Rise

§ 16.6 A point of order of no quorum is not in order in Committee of the Whole where there is pending a motion that the Committee rise, since the motion to rise does not require a quorum for adoption.

On May 31, 1972,(10) during consideration of H.R. 13918, a bill to provide improved financing for the Corporation of Public Broad-

---

9. 116 Cong. Rec. 8562, 8563, 91st Cong. 2d Sess.

10. 118 Cong. Rec. 19353, 92d Cong. 2d Sess.

casting, in the Committee of the Whole, Chairman Robert N. Giaimo, of Connecticut, ruled out of order a point of no quorum while a motion to rise was pending.

Mr. [Harley O.] Staggers [of West Virginia]: Mr. Chairman, I move that the Committee do now rise.

Mr. [H. R.] Gross [of Iowa]: Mr. Chairman, on that motion I demand tellers.

The Chairman: The gentleman from Iowa is demanding tellers on the motion that the Committee do now rise?

Mr. Gross: That is correct, Mr. Chairman.

The Chairman: The Chair will state to the gentleman that the Chair has not yet put the motion.

The question is on the motion offered by the gentleman from West Virginia that the Committee do now rise.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. Gross: Mr. Chairman, on that I demand tellers.

Tellers were refused.

Mr. Gross: Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman: The Chair will advise the gentleman from Iowa that a quorum is not needed upon the motion that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Boggs) resumed the chair.

§ 16.7 A point of order that no quorum is present is not in order pending a tentative affirmative vote that the Committee of the Whole rise.

On Mar. 9, 1936,[11] during consideration of H.R. 11563, the District of Columbia rent commission bill, William B. Umstead, of North Carolina, Chairman of the Committee of the Whole, sustained a point of order that a point of no quorum was not in order.

Mr. [Thomas L.] Blanton [of Texas] (interrupting the reading of the bill): Mr. Chairman, I move that the Committee do now rise.

The question was taken.

Mr. Blanton: Mr. Chairman, I ask for a division.

The Committee divided; and there were—ayes 40, noes 33.

Mr. [Henry] Ellenbogen [of Pennsylvania]: Mr. Chairman, I make the point of order there is not a quorum present.

The Chairman: The Chair will count.

Mr. [John] Taber [of New York]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Taber: Mr. Chairman, I make the point of order that a point of no quorum is not in order after the Committee has determined to rise.

The Chairman: The point of order is sustained. The vote had already been announced.

---

[11] 80 Cong. Rec. 3459, 74th Cong. 2d Sess.

MR. ELLENBOGEN: Mr. Chairman, I ask for tellers.

MR. BLANTON: Mr. Chairman, I make the point of order that the request comes too late, business having intervened

THE CHAIRMAN: The point of order is overruled. The question is on ordering tellers.

Tellers were ordered, and the Chair appointed as tellers Mrs. Norton and Mr. Blanton.

The Committee again divided; and there were—ayes 30, noes 61.

MR. BLANTON: Mr. Chairman, I object to the vote on the ground there is not a quorum present.

THE CHAIRMAN: The Chair will count. [After counting.] One hundred and fourteen Members are present, a quorum.

The Clerk continued reading the bill.

Parliamentarian's Note: At the point that the point of no quorum was first made, the Committee had determined to rise, on which vote a quorum is not required.

Proceedings Following a Point of No Quorum

§ 16.8 Where a point of order is made that a quorum is not present in the Committee of the Whole and the Chair announces that a quorum is not present, a motion that the Committee rise is in order before the Chair directs the Clerk to call the roll as provided in Rule XXIII clause 2;(12) if the vote on the motion discloses a quorum and the motion is lost, the Committee continues with its business.

On May 26, 1966,(13) during consideration of H.R. 13712, the fair labor standards amendments of 1966, the Committee of the Whole resumed business after a teller vote.(14)

MR. [LESLIE C.] ARENDS [of Illinois]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:(15) The Chair will count. [After counting.] Sixty-seven Members are present, not a quorum.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Chairman, I move that the Committee do now rise. On that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Albert and Mr. Arends.

The Committee divided, and the tellers reported and there were—ayes 3, noes 108.

So the motion was rejected.

THE CHAIRMAN: A quorum is present.

The gentleman from Illinois [Mr. Collier] is recognized.

---

12. See *House Rules and Manual* § 863 (1979).
13. 112 CONG. REC. 11621, 89th Cong. 2d Sess.
14. See also 74 CONG. REC. 886, 71st Cong. 3d Sess., Dec. 16, 1930.
15. Charles M. Price (Ill.).

§ 16.9 While an automatic roll call may not be taken in the Committee of the Whole, a Member may make a point of order that a quorum is not present, as evidenced by the announced division or teller vote on the pending question; but if the Chair counts a quorum, business may proceed.

On Feb. 8, 1950,[16] during consideration of H.R. 2945, to adjust postal rates, the Chairman of the Committee of the Whole, Chet Holifield, of California, made a ruling regarding the need for a quorum.

THE CHAIRMAN: The question is on the amendment to the amendment.

The question was taken; and on a division (demanded by Mr. Hagen) there were—ayes 76, noes 21.

MR. [HAROLD C.] HAGEN [of Minnesota]: Mr. Chairman, I object to the vote on the ground that a quorum is not present.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. RANKIN: A quorum is not necessary to vote in the Committee of the Whole and a vote in the Committee of the Whole cannot be forced by a point of no quorum.

THE CHAIRMAN: The Chair will state to the gentleman from Mississippi that the rules require a quorum of a hundred in the Committee of the Whole.

MR. RANKIN: But the gentleman objected to the vote on the ground there was no quorum present.

MR. HAGEN: There was not a quorum present as disclosed by the announcement of the vote.

MR. RANKIN: It is all right to make a point of no quorum; that is one thing; but to object to the vote on the ground that a quorum is not present is something else.

THE CHAIRMAN: The Chair will count. [After counting.] One hundred and sixty-six Members are present, a quorum.

So the amendment was agreed to.

§ 16.10 After a point of order that a quorum is not present in the Committee of the Whole has been made and a motion to rise is rejected (a quorum failing to respond on that vote), the Chair directs the Clerk to call the roll to obtain a quorum.

On July 15, 1942,[17] Wright Patman, of Texas, Chairman of the Committee of the Whole, directed the Clerk to call the roll.

THE CHAIRMAN: The gentleman from New York [Mr. Taber] makes a point of order that a quorum is not present. The Chair will count. [After counting.] Sixty-five Members are present, not a quorum.

---

[16] 96 CONG. REC. 1678, 1679, 81st Cong. 2d Sess.

[17] 88 CONG. REC. 6214, 6215, 77th Cong. 2d Sess.

MR. [JOHN E.] RANKIN of Mississippi: Mr. Chairman, I move that the Committee do now rise, and on that I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. Rankin of Mississippi and Mr. Kinzer.

The Committee divided; and the tellers reported that there were—ayes 13, noes 33.

THE CHAIRMAN: So the Committee refuses to rise. A quorum is not present. The Clerk will call the roll.

§ 16.11 Where the Committee of the Whole rises and the Chairman thereof reports to the House that, pursuant to Rule XXIII clause 2,(18) he caused the roll to be called in Committee to establish the presence of a quorum, the House automatically resolves back into Committee.

On Apr. 6, 1967,(19) the House, after receiving a report from the Chairman of the Committee of the Whole, resolved itself back into the Committee.(20)

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:(21) The Chair will count. [After counting.] A quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Dent, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 2512, and finding itself without a quorum, he had directed the roll to be called, when 376 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

§ 16.12 Where a point of no quorum is made in the Committee of the Whole and the roll is called while a demand for a teller vote on an amendment is pending, the question of ordering tellers is put immediately after the Committee resumes its sitting, and a division vote taken prior to the demand for tellers is not final.

On May 10, 1946,(22) the Chairman of the Committee of the Whole, Jere Cooper, of Tennessee, made a ruling regarding the finality of a division.

---

18. See *House Rules and Manual* § 863 (1979).
19. 113 CONG. REC. 8600, 90th Cong. 1st Sess.
20. See also 115 CONG. REC. 9705, 91st Cong. 1st Sess., Apr. 21, 1969, for another illustration of this principle.
21. John H. Dent (Pa.).
22. 92 CONG. REC. 4840, 79th Cong. 2d Sess.

THE CHAIRMAN: The question is on the amendment to the amendment.

The question was taken; and on a division (demanded by Mr. Rooney) there were—ayes 41, noes 29.

MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, I demand tellers.

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count. [After counting.] Eighty-seven Members are present, not a quorum.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Cooper, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 6335, and finding itself without a quorum, he had directed the roll to be called, when 313 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

THE SPEAKER:(23) The Committee will resume its sitting.

THE CHAIRMAN: The gentleman from Oklahoma [Mr. Johnson] demands tellers on the amendment offered by the gentleman from Idaho [Mr. Dworshak] to the amendment offered by the gentleman from Utah [Mr. Robertson].

MR. [WALTER K.] GRANGER [of Utah]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. GRANGER: As I understood the situation when the quorum was called, the Chair had already announced that the amendment offered by the gentleman from Idaho to the amendment had been agreed to; and the request comes too late.

THE CHAIRMAN: The Chair had announced that on a division the amendment to the amendment had been agreed to. Thereupon, the gentleman from Oklahoma [Mr. Johnson] demanded tellers. At that point a point of order was made that a quorum was not present.

The gentleman's demand for tellers is now pending.

§ 17. Absence of Quorum in Standing Committee as Bar to Floor Consideration or Other Subsequent Proceedings

According to Jefferson's Manual,(24) a majority of a committee acting when together constitutes a quorum for business. A rule(25) further provides that no measure or recommendation shall be reported from any committee unless a majority of the committee was actually present. Because of this provision, a point of order that a quorum was not present when a committee reported a measure, if made in a timely fashion and sustained, bars consideration on the floor.

---

(23) Sam Rayburn (Tex.).

(24) *House Rules and Manual* §§ 407, 409 (1979). See supplements to this edition for discussion of Rule XI clause 2(h)(2) adopted in the 95th Congress for recent rule permitting committees to adopt a rule designating one-third of the members as a quorum for certain preliminary business.

(25) Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

A decision by the Chair to recommit a measure because a quorum was not present when it was reported from committee is made after a series of steps. After the chairman of the committee or other designated person requests floor consideration, a point of order that a quorum was not present in the committee when the measure was reported may be made.(26) If the point of order has been raised at the appropriate time, the Chair may examine the committee report or inquire of the committee chairman or floor manager whether the allegation is true.(27) Based on the answer of the committee chairman, who is obligated to be certain in his response, the Chair sustains or overrules the point of order. When the point is sustained, the measure is recommitted to the committee.(28)

Whether a quorum is actually present also affects issues which do not arise on the floor, such as criminal culpability for perjury in testimony given to a House committee. In *Christoffel* v *United States*,(29) the United States Supreme Court with four members dissenting reversed a conviction under a District of Columbia statute(30) which defines perjury as falsifying testimony "before a competent tribunal," because a quorum of the Committee on Education and Labor was not present when the allegedly perjurious statements were made. The Court observed that the Constitution(1) authorizes each House to determine the rules of its proceedings, and that the rules of the

---

(26) See §§ 17.7–17.10, for precedents relating to the appropriate time to raise this point of order.

(27) See §§ 17.17–17.19, for precedents relating to questioning committee chairmen.

(28) § 17.19, infra.

(29) 338 U.S. 84 (1949). The Court in a footnote alluded to *Meyers* v *United States*, 171 F2d 800, 11 A.L.R. 2d 1 (1948) in which the Court of Appeals for the District of Columbia Circuit reversed a perjury conviction because a Senate subcommittee lacked a quorum when allegedly perjurious testimony was given.

(30) D.C. Code Anno. § 22–2501.

(1) U.S. Const. art. I, § 5, clause 2.

House apply to committees[2] and authorize calls of the House when a quorum is not present;[3] furthermore, a statute[4] (which is also a rule) provides that no measure or recommendation shall be reported from any committee unless a majority was actually present. Basing its ruling on the aforementioned provisions, the Court held that a quorum of the committee must be present to satisfy the "competent tribunal" element of the crime of perjury. By admitting Christoffel's evidence that a quorum was not present when the allegedly perjurious testimony was given[5] notwithstanding the fact that committee records showed that a quorum was present when the meeting was convened and no Member during the session objected to absence of a quorum, the Court accepted Christoffel's contention that a criminal trial is an appropriate occasion for a defendant to raise the quorum issue.

Convicting Christoffel in the face of evidence that a quorum was not present when allegedly perjurious statements were made was found to be not only contrary to the rules and practices of the House, but a denial of his fundamental right to be convicted only on proof beyond a reasonable doubt of all elements of the crime. "A tribunal that is not competent is no tribunal, and it is unthinkable that such a body can be the instrument of a criminal conviction."[6]

The dissenting opinions argued that the majority denied records of Congress the credit and effect to which they are entitled. Instead, it was felt, the Court should defer to the "universal practice" of assumption of a quorum unless and until a point of no quorum is made in the committee meeting.[7]

The Supreme Court in *United States* v *Bryan*[8] upheld a trial court conviction (which had been reversed by the Court of Appeals for the District of Columbia Circuit) for willful failure to comply with a committee subpena under a federal statute.(9) In reaching this holding the Court rejected Bryan's contention that the Committee on Un-American Activities, by lacking a quorum when she appeared and refused to produce the organizational records under her control, was without power to receive such subpenaed documents and that the committee could not be obstructed because it was "organizationally defective."(10) Such defense, based on *Christoffel* v *United States*,(11) was held to be inapposite because the District of Columbia perjury statute(12) in *Christoffel* required an affirmative act, falsification of testimony "before a competent tribunal," while the statute in *Bryan*(13) required intentional failure to produce papers without mentioning anything about competency of the tribunal.(14)

---

[2] Rule XI clause 1(a)(1), *House Rules and Manual* § 703(a) (1979).

[3] Rule XV clauses 2(a), 4, *House Rules and Manual* §§ 768, 773, respectively (1979).

[4] Legislative Reorganization Act of 1946, Pub. L. No. 601, Ch. 753, § 133(d), 60 Stat. 812.

[5] The Court alluded to evidence tending to show that as few as six of the 25 committee members were in attendance during parts of Christoffel's testimony. 338 U.S. 80, 86 (1949). Clause 2(h)(1) of Rule XI was added on Mar. 23, 1955, to require that a quorum in committee for taking testimony and receiving evidence shall not be less than two.

[6] 338 U.S. 80, 90 (1949).

[7] *Id.* at pp. 90, 91.

[8] 339 U.S. 323 (1950); reh. den. 339 U.S. 991 (1950).

There were other reasons to reject Bryan's defense. Her refusal to produce papers obstructed the legislative inquiry, a situation the statute was designed to punish. Furthermore, her failure to raise an objection to lack of a quorum during the hearing when that defect could have been remedied, rather than at the trial two years later, violated the minimum duties and obligations imposed on a witness by a subpena.(15)

In General

§ 17.1 No measure or recommendation shall be reported from any committee unless a majority

---

(9) 2 USC § 192, which provides in relevant part that every person who, having been summoned to produce papers before a committee, willfully defaults shall be deemed guilty of a misdemeanor.

(10) 339 U.S. 323, 328 (1950).

(11) 338 U.S. 80 (1949).

(12) D.C. Code Anno. § 22-2501.

(13) 2 USC § 192.

(14) 339 U.S. 323, 329, 330 (1950).

(15) See the portion of the opinion designated "Second," 339 U.S. 323, 331-335 (1950), for these reasons. The Court's conclusion on the issue of timeliness of raising the point of no quorum contrasts markedly with its conclusion, on the same facts (but in relation to a different criminal offense), in *Christoffel* v *United States*, 338 U.S. 84, 88 (1949), which held that a criminal trial is a proper time first to raise an objection to lack of a quorum. Justice Jackson, in his concurring opinion in *United States* v *Bryan*, 339 U.S. 323, 343-346 (1950) comments on this disparity.

of the committee was actually present when such measure was ordered to be reported.[16]

On May 11, 1950,[17] upon consideration of a privileged resolution, House Resolution 495, reported from the Committee on House Administration, John W. McCormack, of Massachusetts, Speaker pro tempore, made a ruling based on the requirement of a quorum in committees.

> MR. [WAYNE L.] HAYS of Ohio: Mr. Speaker, I make a point of order against the consideration of the resolution on the ground that a quorum was not present when it was reported out of committee.
>
> MRS. [MARY T.] NORTON [of New Jersey]: Mr. Speaker, we did have a quorum present, but some Members may have slipped out of committee during the consideration of the resolution. I assumed that a quorum was present. . . .
>
> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state it.
>
> MR. RANKIN: Mr. Speaker, it is too late to raise the point of order that a quorum was not present in the committee after it has reached the floor of the House. If no point of order is made in the committee, the presumption is that a quorum was present. To take any other attitude would virtually paralyze legislation. If no point of order was made at the time, the presumption then is that a quorum was present.
>
> THE SPEAKER PRO TEMPORE: The Chair will state in response to the parliamentary inquiry that the point of order is properly addressed at this point because the resolution has just been reported to the House. . . .
>
> MR. RANKIN: Mr. Speaker, a further point of order. This is a very serious proposition that really affects the orderly procedure of the House. I make the point of order that it is too late to raise a point of order that there was no quorum present in the committee unless that point of order was made in the committee.
>
> THE SPEAKER PRO TEMPORE: The Chair will state that the point of order can be made in the House when the report is made. A point of order that a quorum was not present when the resolution was reported out can be made when the resolution is reported to the House. For that reason the Chair rules that the gentleman from Ohio [Mr. Hays] is within his rights at this particular time in making the point of order that he has.
>
> MRS. NORTON: Mr. Speaker, if the gentleman insists on his point of order, I will withdraw the resolution.
>
> THE SPEAKER PRO TEMPORE: The resolution is withdrawn. . . .
>
> MR. RANKIN: Mr. Speaker, under the rules of the House and the rules of every committee, legislation is passed every day without a quorum being pres-

---

[16] See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

[17] 96 CONG. REC. 6920, 81st Cong. 2d Sess.

ent, and unless that question is raised they cannot go into the courts and contest the legislation. The same thing applies to the committee. A ruling to the contrary would simply demoralize legislative procedure as far as the committees of this House are concerned.

THE SPEAKER PRO TEMPORE: The Chair calls the attention of the gentleman from Mississippi to paragraph (d) of section 133 of the Legislative Reorganization Act, which reads as follows:

> No measure or recommendation shall be reported from any such committee unless a majority of the committee was actually present.[18]

§ 17.2 A standing committee cannot validly report a measure unless the report was authorized at a formal meeting of the committee with a quorum present and the mere fact that a majority of the committee members have "approved" the report (but not in a formal meeting of the committee) will not suffice.

On Sept. 30, 1966,[19] Speaker John W. McCormack, of Massachusetts, ruled on an objection to a motion to consider a committee report.

MR. [OMAR T.] BURLESON [of Texas]: Mr. Speaker, by direction of the Committee on House Administration, I submit the following privileged report, Report No. 2158, to accompany House Resolution 1028, providing funds for the Committee on House Administration, and ask for its immediate consideration.

MR. [JONATHAN B.] BINGHAM [of New York]: Mr. Speaker, a point of order.

THE SPEAKER: The Chair would like to ask the gentleman from Texas if he is undertaking to bring this resolution up by unanimous consent, or is he reporting it and calling it up as privileged business?

MR. BURLESON: Mr. Speaker, I submit the report as a privileged matter. Should a point of order be raised and should the point of order be sustained, then I would ask unanimous consent for the consideration of House Resolution 1028.

THE SPEAKER: For what purpose does the gentleman from New York rise?

MR. BINGHAM: I make a point of order against the resolution, Mr. Speaker.

THE SPEAKER: On what grounds?

MR. BINGHAM: On the grounds that a quorum of the committee was not present when the resolution was reported. There are a number of members of the committee who have not had an opportunity to have this resolution discussed in a meeting of the committee.

THE SPEAKER: Does the gentleman from Texas desire to be heard?

MR. BURLESON: Mr. Speaker, I desire to be heard.

Mr. Speaker, I do not see that this is a matter involving rules but rather a matter of custom and practice. We were simply following what has been a practice for a great many years relating to noncontroversial matters. This method of obtaining committee approval has been for the convenience of committee members. I shall be glad to relate to the House in just a few words what transpired in this instance.

---

[18] See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979), which adopts this language. This provision, however, did not become part of the rules until Jan. 3, 1953, after the above proceedings took place.

[19] 112 CONG. REC. 24548, 89th Cong. 2d Sess.

Recently it has been difficult to get a quorum, and, for obvious reasons, it has been just about impossible for the last 10 days. Never before has the gentleman from New York objected to a telephone poll of members. In this instance, each of the 25 members of the committee, except those who were on the subcommittee examining contracts, the subcommittee headed by the gentleman from Ohio [Mr. Hays]—who had already agreed to the resolution, were called, and a majority of the members approved the resolution.

This practice has been prevalent and has been permitted over the years, although it has been held to a minimum.

Now Mr. Speaker, I shall be glad to yield to the gentleman from New York if he wants to tell us the real reason he is objecting to the consideration of this resolution: The gentleman never before has objected to this procedure and I ask why he objects now?

Mr. Bingham: Mr. Speaker, will the gentleman yield?

Mr. Burleson: I yield to the gentleman from New York.

Mr. Bingham: Mr. Speaker, I shall be glad to explain. There has been apparently the establishment of a subcommittee of the Committee on House Administration.

The Speaker: The Chair does not want to go into all that. The Chair wants to ask the gentleman from Texas, the chairman of the committee, was a committee meeting called for the purpose of acting on this resolution? And if so, was a quorum present?

Mr. Burleson: Mr. Speaker, I have explained in some detail the procedure used in this instance. There was an agreement by a majority of the committee that the resolution may be presented.

The Speaker: Was there a meeting? Did the committee meet? Was there a quorum present and voting and acting on it?

Mr. Burleson: Mr. Speaker, on infrequent occasions when we have resorted to this procedure as a matter of convenience and of expediting legislation, it has always been accepted as establishing a quorum. As far as I know this procedure has not been challenged. In this case a majority of the committee agreed to the resolution and I insist that a quorum was established and that the report is proper and that the resolution is privileged.

The Speaker: The Chair is prepared to rule.

The Chair does not inquire into the procedure of a committee, in reporting a bill, unless a point of order as to the matter is raised and thus called to the attention of the Chair. Unless a Member makes a point of order, the Chair does not go into the question of committee procedure.

However, since the point of order has been raised, the Chair will point out that the provisions of clause 26(e), rule XI,[20] make it clear that no measure can be reported from a committee unless a majority of the committee were actually present.

The chairman of the Committee on House Administration has stated that the resolution he now seeks to call up was not ordered reported at a formal meeting of the committee where a quorum was present.

Therefore, the Chair sustains the point of order made by the gentleman from New York [Mr. Bingham].

The report and resolution are recommitted to the Committee on House Administration.

§ 17.3 Although a quorum of the committee must be present when a measure is ordered reported, the Speaker has approved a practice whereby less than a quorum having tentatively voted to report a measure, a majority, in a formal meeting, has subsequently ratified such action before the report was filed.

On July 9, 1956,[1] Speaker Sam Rayburn, of Texas, ruled on a question of quorum requirements in committees.

Mr. [John L.] McMillan [of South Carolina]: Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 4697) to amend the Alcoholic Beverage Control Act of the District of Columbia, 1954, as amended, and I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The Speaker: Is there objection to the request of the gentleman from South Carolina?

Mr. [Albert P.] Morano [of Connecticut]: Mr. Speaker, I make the point of order against the consideration of this bill on the ground that when the committee considered this bill there was not a quorum present to report it to the House. . . .

Mr. [Howard W.] Smith of Virginia: Mr. Speaker, there is great difficulty, it is true, in getting a quorum of the District Committee, but I was personally present when this bill was voted out, and there was a quorum of the committee present. And, in order to be sure that there was no such question as this raised on the floor of the House, I myself made a motion, when a quorum was present, to reconsider all of the bills that had been considered and voted them out again, which was done. . . .

The Speaker: The Chair must know whether the gentleman says that there was a quorum present or not, to his knowledge.

Mr. McMillan: Mr. Speaker, there was a quorum present part of the time and part of the time there was not. . . .

Mr. Morano: Mr. Speaker, I press my point of order. I would like to know whether or not there was a quorum present when this bill was reported, not when the gentleman from Virginia made his motion.

---

[20] See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

[1] 102 Cong. Rec. 12199, 12200, 84th Cong. 2d Sess.

THE SPEAKER: The chairman of the legislative committee has just stated to the Chair that there was a quorum present when this bill was reported. The Chair is going to take the word of the chairman of the committee, because that is according to the rules and practices of the House.

MR. MORANO: Mr. Speaker, I understood the chairman to say that when the gentleman from Virginia [Mr. Smith] made his motion there was a quorum present. But I did not understand the chairman of the committee to say that when this bill was reported there was a quorum present.

THE SPEAKER: The Chair is going to ask the gentleman from South Carolina [Mr. McMillan] that question now.

MR. MCMILLAN: Mr. Speaker, when the gentleman from Virginia made his motion he stated that he wanted all bills that were considered that day passed with a quorum present.

THE SPEAKER: The Chair is going to ask the gentleman again if a quorum was present, to his certain knowledge, when this bill was reported.

MR. MCMILLAN: There was not when this bill was passed.

MR. MORANO: Mr. Speaker, I insist on my point of order.

MR. SMITH of Virginia: Mr. Speaker, I should like to be heard further, because I think it is important to straighten this question out.

THE SPEAKER: It is.

MR. SMITH of Virginia: Not from the standpoint of this bill, but as a parliamentary question. Frequently bills are discussed and voted upon when a quorum is not present. It is the custom, at the conclusion of the discussion, when a quorum is present, to move a reconsideration of all the bills that have been passed, and to move to report them out. That is what was done in this matter. I think it is important for the House to know just how strict this rule is and how it is to be applied, because I think every bill that was passed upon this morning came here under the same conditions as this bill.

MR. [SIDNEY E.] SIMPSON of Illinois: Mr. Speaker, will the gentleman yield?

MR. SMITH of Virginia: I yield.

MR. SIMPSON of Illinois: Mr. Speaker, I wish to verify what Judge Smith is saying. That was exactly the procedure in this matter in the House Committee on the District of Columbia.

MR. SMITH of Virginia: On this proceeding of the committee, I think we ought to be straightened out on it for the future.

THE SPEAKER: This has come up many times and it has always been decided by the Chair on the statement of the chairman of the legislative committee concerned. The gentleman from South Carolina said that when this bill was reported there was not a quorum present. Is the Chair quoting the gentleman from South Carolina correctly?

MR. MCMILLAN: That is correct, Mr. Speaker.

MR. SMITH of Virginia: That really is not the question I am trying to get determined for the benefit of the House and other committees. It is true, I believe, there was not a quorum present when any one of these bills was considered, but before the session adjourned a quorum did appear, and then a blanket motion was made to reconsider all of the bills that had previously been passed upon and to vote them out, which motion was carried. May I ask the chairman of the committee if that is a correct statement of what occurred?

MR. MCMILLAN: That is correct.

THE SPEAKER: A quorum was present at that time?

MR. SMITH of Virginia: At that time a quorum was present. That was the reason the motion was made. That is the only way we can operate in that committee, I might add.

MR. [HENRY O.] TALLE [of Iowa]: Mr. Speaker, may I say as a member of the District Committee that I was present at the meeting. The gentleman from Virginia [Mr. Smith] has recorded the proceedings accurately.

MR. MORANO: There is obviously a contradiction here, Mr. Speaker. The chairman of the committee said there was not a quorum present when this bill was considered. The issue before the Speaker, as I understand it, is a ruling on this bill, not on other bills that were considered en bloc.

THE SPEAKER: That is correct, but the gentleman from South Carolina said that on the last action on the bill in the committee a quorum was present.

The Chair under the circumstances must overrule the point of order made by the gentleman from Connecticut.(2)

§ 17.4 Even though a report is filed as privileged, to retain the status of privileged business when considered, such business must be ordered reported from standing committees when a quorum is present in such committees.

On May 11, 1950,(3) during consideration of House Resolution 495, which had been offered as a privileged matter by the Committee on House Administration and was withdrawn because a point of no quorum during consideration in committee had been made and sustained on the floor, Speaker pro tempore John W. McCormack, of Massachusetts, made a ruling regarding the prerequisite for privileged status.

> MR. [THOMAS B.] STANLEY [of Virginia]: A further parliamentary inquiry, Mr. Speaker. Is this a privileged matter?
>
> THE SPEAKER PRO TEMPORE: If it is reported out of committee with a quorum present, it is a privileged matter.

Presumption of Presence of a Quorum

§ 17.5 Unless a point of order is raised, the House assumes that reports from committees were

---

2. See § 17.2, supra, in which the Speaker rejected another method of expediting determination of committee sentiment, a telephone poll, since the committee was not acting when together as required by § 407 of Jefferson's Manual.

3. 96 CONG. REC. 6920, 81st Cong. 2d Sess.

authorized when a quorum of the committee was present.

On Sept. 30, 1966,[4] Speaker John W. McCormack, of Massachusetts, ruled on an objection to a motion to consider a committee report.

Timeliness of Point of Order

§ 17.6 While any Member may challenge the presumption that a committee's action was taken when a quorum of the committee was present, he must do so when the measure is called up; a point of order comes too late when the House has already agreed to the measure.

On Feb. 28, 1968,[5] Speaker John W. McCormack, of Massachusetts, made a ruling as to the proper time to raise a point of no quorum.

MR. [SAMUEL N.] FRIEDEL [of Maryland]: Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 1127) on the resolution (H. Res. 1042) authorizing the expenditure of certain funds for the expenses of the Committee on Un-American Activities, and ask for immediate consideration of the resolution.

MR. [WILLIAM F.] RYAN [of New York]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state his point of order.

MR. RYAN. Mr. Speaker, I make a point of order against the consideration of the privileged report on House Resolution 1042 on the ground that a quorum was not present in the Committee on House Administration when this matter was considered.

THE SPEAKER: Does the gentleman from Maryland desire to be heard on the point of order?

MR. FRIEDEL: Mr. Speaker, it is true that we did not have a quorum present for the consideration of House Resolution 1042, but we had unanimous consent by the members that they would not raise a point of order.

However, Mr. Speaker, under the circumstances, in view of the point of order being raised, I withdraw the resolution.

THE SPEAKER: The gentleman from Maryland withdraws the resolution. . . .

MR. [EDWIN E.] WILLIS [of Louisiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. WILLIS: Mr. Speaker, the last resolution sought to be called up was a resolution relative to the House Committee on Un-American Activities, and it was withdrawn.

Now, however, the gentleman from Maryland states, no, it is not so, that there was no more a quorum present for all the other resolutions than there was a quorum present to consider our resolution.

---

[4] For the proceedings of this date, see § 17.2, supra.

[5] 114 CONG. REC. 4449, 90th Cong. 2d Sess.

I, therefore, ask unanimous consent that all the other resolutions be withdrawn also.

The Speaker: The Chair will state that if a quorum was not present—and the Chair is not saying that there was not a quorum present—but if a quorum was not present then the point of order should have been made by any Member at the time a particular resolution was called up.

§ 17.7 A point of order that a quorum of a committee was not present when a privileged bill or resolution was ordered reported may be made when the Member presents the report to the House in the appropriate manner.

On May 11, 1950,(6) upon consideration of a privileged resolution, Speaker pro tempore John W. McCormack, of Massachusetts, made a ruling regarding the timeliness of a point of no quorum in the committee reporting the measure.(7)

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Rankin: Mr. Speaker, it is too late to raise the point of order that a quorum was not present in the committee after it has reached the floor of the House. If no point of order is made in the committee, the presumption is that a quorum was present. To take any other attitude would virtually paralyze legislation. If no point of order was made at the time, the presumption then is that a quorum was present.

The Speaker Pro Tempore: The Chair will state in response to the parliamentary inquiry that the point of order is properly addressed at this point because the resolution has just been reported to the House. . . .

Mr. Rankin: Mr. Speaker, a further point of order. This is a very serious proposition that really affects the orderly procedure of the House. I make the point of order that it is too late to raise a point of order that there was no quorum present in the committee unless that point of order was made in the committee.

The Speaker Pro Tempore: The Chair will state that the point of order can be made in the House when the report is made. A point of order that a quorum was not present when the resolution was reported out can be made when the resolution is reported to the House. For that reason the Chair rules that the gentleman from Ohio [Mr. Hays] is within his rights at this particular time in making the point of order that he has.

Mrs. Norton: Mr. Speaker, if the gentleman insists on his point of order, I will withdraw the resolution.

---

6. 96 Cong. Rec. 6920, 81st Cong. 2d Sess.

7. Note: This inquiry was made after Mr. Wayne L. Hays (Ohio), made a point of no quorum in committee against consideration of the resolution that had just been offered as a privileged matter (by direction of the Committee on House Administration) by Mrs. Mary T. Norton (N.J.).

The Speaker Pro Tempore: The resolution is withdrawn.

§ 17.8 A point of order that a bill was ordered reported from a standing committee in the absence of a quorum of that committee is properly raised in the House when the bill is called up for consideration. (However, where a bill is being considered under suspension of the rules, a point of order will not lie against the bill on the ground that a quorum was not present when the bill was reported from committee.)

On Oct. 7, 1968,(8) Speaker John W. McCormack, of Massachusetts, ruled on the timeliness of a point of no quorum of the committee reporting out a bill.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, relating to our program for today, a number of bills are slated to be considered under suspension of rules in the House. There are four bills from the Committee on Post Office and Civil Service which, from evidence I have, were reported in violation of rule XI, clause 26(e) which states:

> (e) No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.(9)

The evidence I have is that H.R. 17954 and H.R. 7406 were ordered reported from the Committee on Post Office and Civil Service in executive session on August 2, 1968, without a quorum present.

Additional evidence reveals that S. 1507 and S. 1190 were ordered reported from the Committee on Post Office and Civil Service in executive session on September 3, 1968, without a quorum present. I further cite from Jefferson's Manual, section 408:

> A bill improperly reported is not entitled to its place on the calendar; but the validity of a report may not be questioned after the House has voted to consider it, or after actual consideration has begun.

Mr. Speaker, I submit that the bills S. 1507, S. 1190, H.R. 17954, and H.R. 7406 all were improperly reported. Mr. Speaker, my parliamentary inquiry is this: At what point in the proceedings would it be in order to raise the question against these bills as being in violation of rule XI, clause 26(e) inasmuch as they are scheduled to be considered under suspension of the rules, which would obviously suspend the rule I have cited.

Mr. Speaker, I ask the guidance of the Chair in lodging my point of order against these listed bills so that my objection may be fairly considered, and so that my right to object will be protected. Mr. Speaker, I intend to do so only because orderly procedure must be based on compliance with the rules of the House which we have adopted.

The Speaker: The Chair will state that any point of order would have to be made when the bill is called up.

---

[8] 114 Cong. Rec. 29764, 90th Cong. 2d Sess.

[9] See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

The Chair might also advise or convey the suggestion to the gentleman from Missouri that the bills will be considered under suspension of the rules, and that means suspension of all rules.

Mr. Hall: Mr. Speaker, a further parliamentary inquiry. Would it not be in order, prior to the House going into the Consent Calendar or suspension of the rules, to lodge the point of order against the bills at this time?

The Speaker: The point of order could be directed against such consideration when the bills are called up under the general rules of the House. The rules we are operating under today as far as these bills are concerned concerns suspension of the rules, and that motion will suspend all rules.

Mr. Hall: Mr. Speaker, if I may inquire further, is it not true that, until such time as we go into that period of suspension of the rules, a point of order would logically lie against such bills which violate the prerogatives of the House and of the individual Members thereof, to say nothing of the committee rules? My belief that a point of order should be sustained is based on improper committee procedure and addresses itself to the fact that the bills are improperly scheduled, listed, or programed on the calendar, or rule of suspension, and so forth.

The Speaker: The Chair will state, as to points of order, at the time the Chair answered the specific inquiry of the gentleman from Missouri, a point of order would not lie until the bill is reached and brought up for consideration.

Mr. Hall: Mr. Speaker, may I be recognized at that time to lodge such a point of order, and will this Member be protected?

The Speaker: The Chair will always protect the rights of any Member. The Chair has frankly conveyed to the gentleman that we are operating under a suspension of the rules procedure today, and that suspends all rules.

Mr. [Leslie C.] Arends [of Illinois]: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Arends: Do I correctly understand the ruling of the Chair that suspending all the rules pertains to more than just the House; it pertains to the rules of committee action likewise?

The Speaker: The gentleman from Illinois is correct.

Mr. Arends: I thank the Speaker.

§ 17.9 A point of order that a bill was reported from committee in the absence of a quorum is in order while the motion that the House resolve itself into the Committee of the Whole for the consideration of the bill is pending.

On Oct. 11, 1968,(10) a point of order that a quorum was absent when the standing committee considered a bill was entertained pending a vote on a motion to resolve into the Committee of the Whole.

Mr. [William R.] Poage [of Texas]:

---

10. 114 Cong. Rec. 30739, 90th Cong. 2d Sess.

Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 2511) to maintain and improve the income of producers of crude pine gum, to stabilize production of crude pine gum, and for other purposes.

MR. [PAUL] FINDLEY [of Illinois]: Mr. Speaker, I make a point of order against consideration of S. 2511.

THE SPEAKER:(11) The gentleman will state his point of order.

MR. FINDLEY: Mr. Speaker, I make a point of order against the consideration of S. 2511 on the grounds that the Committee on Agriculture acted without a quorum being present when it ordered S. 2511 reported to the House on July 2, 1968.

Rule XI, clause 26(e), of the rules of the House states as follows:

> (e) No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.(12)

I have personally checked with the staff of the Committee on Agriculture and have been informed that on July 2, 1968, there were only 14 members of the committee present and that the vote to report S. 2511 to the House was 11 to 0 in favor of such action. Since the total membership of that committee is 35, there obviously was not a majority actually present as required by rule XI, clause 26(e).

THE SPEAKER: The Chair would like to inquire of the chairman of the Committee on Agriculture if a quorum was present when the bill was reported.

MR. POAGE: Mr. Speaker, the chairman of the Committee on Agriculture was not present the day this bill was reported. The record indicates that there were only 14 members of the committee present at the time it was reported.

THE SPEAKER: Does the gentleman from Texas state that the record of his committee shows there were 14 members present when the bill was acted upon and reported out?

MR. POAGE: That is correct.

THE SPEAKER: [The rule] states:

> No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.

Upon the statement of the chairman of the committee, a majority of the committee were not actually present. Therefore, the point of order is sustained; and the bill is recommitted to the Committee on Agriculture.

§ 17.10 A point of order under Rule XI clause 27(e),(13) that a bill was reported from committee in the absence of a quorum, is properly raised when the bill is called up for consideration; such a point of order will not lie against a resolution providing for the consideration of the bill.

On Oct. 11, 1968,(14) Speaker John W. McCormack, of Massa-

---

11. John W. McCormack (Mass.).
12. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).
13. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).
14. 114 CONG. REC. 30738, 90th Cong. 2d Sess.

chusetts, made a ruling regarding the proper time to raise a point of order that a bill was reported from committee without a quorum being present.

Mr. [John A.] Young [of Texas]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1256 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1256

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 2511) to maintain and improve the income of producers of crude pine gum. . . .

Mr. [Paul] Findley [of Illinois]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state his point of order.

Mr. Findley: Mr. Speaker, I make a point of order against the consideration of House Resolution 1256 on the grounds that the Committee on Agriculture acted without a quorum being present when it ordered S. 2511 reported to the House on July 2, 1968.

Rule XI, clause 26(e), of the rules of the House states as follows:(15)

> (e) No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.

I have personally checked with the staff of the Committee on Agriculture and have been informed that on July 2, 1968, there were only 14 members of the committee present and that the vote to report S. 2511 to the House was 11 to 0 in favor of such action. Since the total membership of that committee is 35, there obviously was not a majority actually present as required by rule XI, clause 26(e).

Mr. Speaker, I raise the point of order at this time in order to have it presented to the Chair in a timely fashion. The precedents indicate that such a point of order is made too late if it comes after debate has started on either the rule or on the bill itself—VIII 2223 and February 24, 1947, page 1374.(16)

Furthermore, the Chair stated in a response to a parliamentary inquiry by the gentleman from Missouri [Mr. Hall] on Monday of this week—October 7, page 29764—that any point of order under rule XI, clause 26(e), would have to be made when the bill is called up.

Since House Resolution 1256 is the rule which calls up S. 2511 for consideration in the Committee of the Whole House on the State of the Union, I therefore insist on my point of order at this time.

The Speaker: The Chair states, in response to the inquiry of the gentleman from Illinois, that the point of order at this time would be premature.

The Chair might state that the appropriate time to make the point of order would be at the time the motion is made to go in the Committee of the Whole.

---

15. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

16. See § 17.14, infra, for proceedings on Feb. 24, 1947.

Mr. Findley: That is after the rule is adopted?

The Speaker: After the rule is adopted.

Mr. Findley: Mr. Speaker, I thank the Chair.

§ 17.11 Points of order against a bill on the ground that a quorum of the committee was not present when the bill was ordered reported should be made in the House; such points come too late after the House has resolved itself into the Committee of the Whole for consideration of the bill.

On June 14, 1946,(17) during consideration of S. 524, the national cemetery bill, Jere Cooper, of Tennessee, Chairman of the Committee of the Whole, made a ruling on the proper time to raise objection to proceedings of the committee reporting a bill.

Mr. [Forest A.] Harness of Indiana: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Harness of Indiana: At what time would a point of order lie against the bill on the ground that the committee reporting it was without jurisdiction because at the time it reported the bill there was not a quorum present?

The Chairman: Answering the gentleman's parliamentary inquiry the Chair will state that such a point of order would be too late now that the House is in the Committee of the Whole House on the State of the Union. Such a point of order should be made in the House before consideration of the bill.

§ 17.12 A point of order that a nonprivileged measure was reported from committee in the absence of a quorum will not lie until the House has agreed to consider the bill.

On Oct. 11, 1968,(18) Speaker John W. McCormack, of Massachusetts, ruled on the timeliness of a point of no quorum of the committee reporting a bill, when raised in the House against consideration of the bill.(19)

§ 17.13 Following the discharge of the Committee of the Whole from further consideration of a bill, a Member was permitted, pending consideration of the bill, to make the point of order that the measure had been reported from committee in the absence of a quorum.

---

17. 92 Cong. Rec. 6961, 79th Cong. 2d Sess.

18. 114 Cong. Rec. 30751, 90th Cong. 2d Sess.

19. See the excerpt from § 17.13, infra, for the proceedings of this date.

On Oct. 11, 1968,[1] Speaker John W. McCormack, of Massachusetts, entertained a point of order concerning the lack of a quorum of the committee reporting a bill after the bill was read.

Mr. [Thaddeus J.] Dulski [of New York]: Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 1507) to include firefighters within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of Government employees engaged in certain hazardous occupations.

The Clerk read the title of the bill.

The Speaker: Is there objection to the request of the gentleman from New York?

Mr. [John M.] Ashbrook [of Ohio]: Mr. Speaker, reserving the right to object, I would make a point of order against the bill. I make a point of order that report No. 1945 violates rule XI, clause 26,[2] and that a quorum was not present when the bill was passed by the Post Office and Civil Service Committee.

The Speaker: The Chair will state that the unanimous-consent request is for the present consideration of the bill. In the opinion of the Chair, at this point a point of order is not in order. If the consent is granted, then a point of order might be in order, though the Chair does not indicate what the decision of the Chair might be.

Mr. Ashbrook: Mr. Speaker, I would say to the Chair, on that ground I would withdraw my reservation of objection.

The Speaker: Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill, as follows:

S. 1507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8336(c) of title 5, United States Code, is amended. . . .

The Speaker: Now does the gentleman from Ohio want to make the point of order?

Mr. Ashbrook: Yes, Mr. Speaker. I make the point of order for the reasons already stated and request that the bill be recommitted to the Committee on Post Office and Civil Service.

The Speaker: The Chair would like to ask the gentleman from New York if a quorum was present in his committee when the bill was reported?

Mr. Dulski: Mr. Speaker, the gentleman from Ohio is correct. There was no quorum present.

The Speaker: Under those circumstances, the Chair sustains the point of order and the bill is recommitted to the Committee on Post Office and Civil Service.

Parliamentarian's Note: The Chair was, under the ruling of July 19, 1947, contained at Chapter 31, § 8.2, infra, and at Chapter 17, § 58.7, supra, justified in interpreting the granting of the original unanimous-consent request (to discharge the Committee of the Whole House on the state of the Union) as not tantamount to waiving the point of order, since the request here did not specify a waiver of all points of order.

---

[1] 114 Cong. Rec. 30751, 90th Cong. 2d Sess.

[2] See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

§ 17.14 The point of order that a bill was reported from a committee without a formal meeting and a quorum present comes too late if debate has started on the bill in the House.

On Feb. 24, 1947,(3) during consideration of a bill providing for daylight saving time in the District of Columbia, Speaker Joseph W. Martin, Jr., of Massachusetts, made a ruling regarding timeliness of a point of no quorum in committee.(4)

> MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 1700) to provide for daylight saving in the District of Columbia, and ask for its immediate consideration.
>
> The Clerk read the bill, as follows: . . .
>
> THE SPEAKER: The gentleman from Illinois is recognized for 1 hour. . . .
>
> MR. DIRKSEN: Mr. Speaker, this is the first District Day that has been claimed by the Committee on the District of Columbia. . . .
>
> MR. [DANIEL A.] REED of New York: Mr. Speaker, a point of order.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. REED of New York: I believe the Reorganization Act [section 133(d)] provides that no bill shall come to the floor unless it is reported out of committee when a quorum is present. As I understand the statement of the gentleman from Illinois, there was no meeting of the committee.
>
> THE SPEAKER: The point of order comes too late. It should have been made before debate started on the bill.

§ 17.15 A point of order that a quorum was not present in committee when a resolution was ordered reported comes too late if not made when the resolution was read.

On Feb. 25, 1954,(5) after debate had commenced on House Resolution 419, which was offered by the Committee on House Administration and provided by additional funds from the contingent fund to be paid for an investigation by a subcommittee of the Committee on Government Operations, Speaker Joseph W. Martin, Jr., of Massachusetts, made a ruling on the timeliness in the House of a point of no quorum in committee when the resolution was ordered reported.

---

3. 93 CONG. REC. 1368, 1369, 1374, 80th Cong. 1st Sess.
4. See also § 17.10, supra.
5. 100 CONG. REC. 2294, 2295, 2303, 83d Cong. 2d Sess.

Mr. [Karl M.] LeCompte [of Iowa]: Mr. Speaker, by direction of the Committee on House Administration, I call up for consideration at this time House Resolution 419 with a committee amendment.

The Clerk read as follows: . . .

With the following committee amendment: . . .

Mr. LeCompte: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. LeCompte: Mr. Speaker, this is a privileged resolution?

The Speaker: Yes.

Mr. LeCompte: And the same rules apply in this case as in the case of the resolution just agreed to by the House?

The Speaker: Yes.

Mr. LeCompte: Mr. Speaker, for the benefit of the Members of the House may I say that by the terms of this resolution the sum of $100,000 is provided for an investigation by one of the subcommittees of the Committee on Government Operations, the subcommittee being headed by the gentleman from Ohio [Mr. Bender]. . . .

Mr. [Clare E.] Hoffman of Michigan: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Hoffman of Michigan: Mr. Speaker, I object to consideration of the resolution at this time unless it appears that a quorum was present when the resolution was authorized by the committee or unless the chairman of the committee will so state that a quorum was present. If he does, that will be satisfactory.

The Speaker: The gentleman from Michigan [Mr. Hoffman], makes the point of order that a quorum was not present in the committee reporting this resolution. Unfortunately for the gentleman from Michigan, he makes his point of order too late. That should have been made at the time the resolution was read.

Mr. Hoffman of Michigan: Mr. Speaker, I want to make one correction. I did not make the point of order that a quorum was not present. The point of order was that consideration of the bill is not in order unless the record showed a quorum was present or unless the gentleman so stated.

The Speaker: The gentleman should have made that point of order at the time the resolution was read.

§ 17.16 After the adoption of a resolution by the House, it is too late to attack the validity of the action taken by the committee reporting the resolution on the ground that a quorum was not present when it was ordered reported.

On Feb. 28, 1968,(6) Speaker John W. McCormack, of Massachusetts, made a ruling as to the proper time to raise a point of order that a committee action was taken in the absence of a quorum.

---

6. For the proceedings of this date, see § 17.6, supra.

Questioning the Committee Chairman

§ 17.17 Where a report from a committee was challenged on the ground that a quorum of the committee was not present when the report was authorized, the Speaker questioned the chairman of the committee concerning the truth of the contention.

On Oct. 11, 1968,(7) Speaker John W. McCormack, of Massachusetts, questioned the Chairman of the Committee on Agriculture with respect to a point of order.(8)

§ 17.18 Because the Chair has no knowledge of what occurred in a standing committee, he must rely on the certain statement of the chairman of the committee as to whether a quorum was present when the committee ordered the bill reported.

On July 9, 1956,(9) Speaker Sam Rayburn, of Texas, ruled on a point of order, as follows:

> MR. [JOHN L.] MCMILLAN [of South Carolina]: Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 4697) to amend the Alcoholic Beverage Control Act of the District of Columbia, 1954, as amended, and I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.
>
> THE SPEAKER: Is there objection to the request of the gentleman from South Carolina?
>
> MR. [ALBERT P.] MORANO [of Connecticut]: Mr. Speaker, I make the point of order against the consideration of this bill on the ground that when the committee considered this bill there was not a quorum present to report it to the House. . . .
>
> MR. [SIDNEY E.] SIMPSON of Illinois: I will say for the benefit of the House that I was at the committee meeting when the gentleman from Virginia [Mr. Smith] brought up the point of no quorum; and there was a quorum present.
>
> THE SPEAKER: That is what the Chair is trying to ascertain from the chairman of the committee.
>
> MR. MCMILLAN: That is correct.
>
> THE SPEAKER: That is the point that is involved here.
>
> MR. MCMILLAN: The gentleman from Virginia [Mr. Smith] made that motion and there was a quorum present.
>
> MR. MORANO: Mr. Speaker, I press my point of order. I would like to know whether or not there was a quorum present when this bill was reported, not when the gentleman from Virginia made his motion.
>
> THE SPEAKER: The chairman of the legislative committee has just stated to the Chair that there was a quorum present when this bill was reported. The

---

7. 114 CONG. REC. 30739, 90th Cong. 2d Sess.
8. For the proceedings of this date, see § 17.9, supra.
9. 102 CONG. REC. 12199, 12200, 84th Cong. 2d Sess.

Chair is going to take the word of the chairman of the committee, because that is according to the rules and practices of the House.

MR. MORANO: Mr. Speaker, I understood the chairman to say that when the gentleman from Virginia [Mr. Smith] made his motion there was a quorum present. But I did not understand the chairman of the committee to say that when this bill was reported there was a quorum present.

THE SPEAKER: The Chair is going to ask the gentleman from South Carolina [Mr. McMillan] that question now.

MR. MCMILLAN: Mr. Speaker, when the gentleman from Virginia made his motion he stated that he wanted all bills that were considered that day passed with a quorum present.

THE SPEAKER: The Chair is going to ask the gentleman again if a quorum was present, to his certain knowledge, when this bill was reported. . . . The gentleman from South Carolina said that on the last action on the bill in the committee a quorum was present.

The Chair under the circumstances must overrule the point of order made by the gentleman from Connecticut.

§ 17.19 Where the chairman of a committee concedes that a bill was ordered reported when a quorum was not present, and a point of order is sustained against the bill on that ground, the bill is recommitted.

On Oct. 11, 1968,(10) a bill reported from the Committee on Agriculture was recommitted because a quorum had not been present when the bill was ordered reported.(11)

Withdrawal of Floor Consideration

§ 17.20 Where a point of order was raised against consideration of a privileged resolution, reported and called up by the Committee on House Administration, on the ground that a quorum of the committee was not present when the resolution was ordered reported, the resolution was withdrawn before the Chair ruled.

On Feb. 28, 1968,(12) a resolution was withdrawn after a point of order was raised in the House that the committee lacked a quorum when the resolution was reported.

> MR. [SAMUEL N.] FRIEDEL [of Maryland]: Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 1127) on the resolution (H. Res. 1042) authorizing the expenditure of certain funds for the expenses of the Committee on Un-

---

10. 114 CONG. REC. 30739, 90th Cong. 2d Sess.

11. See the proceedings discussed in § 17.9, supra. See also 114 CONG. REC. 30751, 90th Cong. 2d Sess., Oct. 11, 1968, for another illustration.

12. 114 CONG. REC. 4449, 90th Cong. 2d Sess.

American Activities, and ask for immediate consideration of the resolution.

Mr. [William F.] Ryan [of New York]: Mr. Speaker, a point of order.

The Speaker:[13] The gentleman will state his point of order.

Mr. Ryan: Mr. Speaker, I make a point of order against the consideration of the privileged report on House Resolution 1042 on the ground that a quorum was not present in the Committee on House Administration when this matter was considered.

The Speaker: Does the gentleman from Maryland desire to be heard on the point of order?

Mr. Friedel: Mr. Speaker, it is true that we did not have a quorum present for the consideration of House Resolution 1042, but we had unanimous consent by the members that they would not raise a point of order.

However, Mr. Speaker, under the circumstances, in view of the point of order being raised, I withdraw the resolution.

The Speaker: The gentleman from Maryland withdraws the resolution.

§ 17.21 A report from the Committee on Rules, about to be reported from the floor, was not filed because of a question as to the presence of a quorum of the committee when the resolution was ordered reported.

On Feb. 2, 1951,[14] House Resolution 95, authorizing the Committee on the Judiciary to conduct studies and investigations relating to matters within its jurisdiction, was withdrawn.

Mr. [Adolph J.] Sabath [of Illinois]: Mr. Speaker, I desire to file a privileged report for printing in the Record.

The Clerk read as follows:

> House Resolution 95, authorizing the Committee on the Judiciary to conduct studies and investigations relating to matters within its jurisdiction.

Mr. [Clarence J.] Brown of Ohio: Mr. Speaker, a parliamentary inquiry.

The Speaker:[15] The gentleman will state it.

Mr. Brown of Ohio: Mr. Speaker, may the gentleman from Ohio inquire what is the privileged report?

The Speaker: The Clerk read the report. The Clerk will reread it.

The Clerk read as follows:

> House Resolution 95, authorizing the Committee on the Judiciary to conduct studies and investigations relating to matters within its jurisdiction.

Mr. Brown of Ohio and Mr. [Edward E.] Cox [of Georgia] rose.

The Speaker: The gentleman from Illinois has the floor.

Mr. Cox: Mr. Speaker, will the gentleman yield?

Mr. Sabath: For a question.

Mr. Cox: For a statement. The gentleman violates an agreement we had on the floor.

Mr. Sabath: I did not violate any agreement.

---

[13] John W. McCormack (Mass.).

[14] 97 Cong. Rec. 876, 82d Cong. 1st Sess.

[15] Sam Rayburn (Tex.).

The Speaker: The gentleman from Illinois asked unanimous consent to have until midnight to file a report from the Committee on Rules. That was day before yesterday. The request was objected to. There was no agreement the Chair knows anything about.

Mr. Cox: Mr. Speaker, I had an agreement with the gentleman myself. The Committee on Rules reported this resolution when a quorum was not present.

Mr. Brown of Ohio: Mr. Speaker, I desire to make a point of order.

Mr. Cox: Mr. Speaker, I approached the gentleman on the floor and made a statement to him. He said he would not offer this resolution until the committee had had opportunity to act on it again. Now, that was fair of the gentleman. Of course, I do not mean to say the gentleman intentionally violates an agreement, but he has violated an agreement.

Mr. Sabath: No. Wait a minute. Mr. Speaker, to make matters clear, two of the Republican Members left the committee—the committee remained in session—to answer a roll call. We had seven Members and there was no objection.

Mr. Cox: The gentleman is mistaken. There were six. I counted them.

Mr. Brown of Ohio: Mr. Speaker, I make the point of order that the resolution has not been properly reported by the Rules Committee.

Mr. Sabath: It has been reported.

Mr. Brown of Ohio: I think an inquiry by the Chair will determine there was not a quorum present, and that the resolution was not before the committee at that time.

Mr. Cox: That is right. That is a correct statement.

Mr. Brown of Ohio: I must protest, Mr. Speaker, and I must make the point of order. . . .

Mr. Sabath: Mr. Speaker, even if a quorum was not present, no point of order has been made. But a quorum was present, and I can give you the names of the seven Members who were present. They were Mr. Cox, Mr. Colmer, Mr. Madden, Mr. Delaney, Mr. Mitchell, Mr. Latham, and myself. Seven of twelve makes a quorum. But I withheld it because the gentleman from Ohio [Mr. Brown] objected due to some misunderstanding with the gentleman from New York [Mr. Celler]. Since that time I have learned that the gentleman from New York [Mr. Celler] has agreed with the gentleman from Ohio [Mr. Brown] on the assignment of committees and because the gentleman from New York [Mr. Celler] assured me that an agreement has been reached with the gentleman from Ohio [Mr. Brown] as to the number of subcommittees, I present it today. A quorum was present. The committee had jurisdiction.

Mr. Cox: Mr. Speaker, if the gentleman will yield there, the gentleman will recall that the gentleman from Virginia [Mr. Smith] and the gentleman from Texas were not present. There was not a single Republican present.

Mr. Sabath: There was a Republican present.

Mr. Cox: Not a single Republican was present. This was not on the agenda but it was called up after the Republicans left, and there was not the majority present. . . .

MR. SABATH: I withdraw the resolution, Mr. Speaker.

Suspension of the Rules

§ 17.22 Because a motion to suspend the rules and pass a bill suspends all rules in conflict with the motion, a point of order will not lie against the bill on the ground that a quorum of the committee was not present when it was reported.

On Sept. 16, 1968,(16) Speaker John W. McCormack, of Massachusetts, ruled on the validity of a point of no quorum during a suspension of the rules procedure.

MR. [MORRIS K.] UDALL [of Arizona]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 19136) to amend title 5, United States Code, to provide for the payment of overtime and standby pay to certain personnel employed in the Department of Transportation.

The Clerk read as follows:

H.R. 19136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5542(a) of title 5, United States Code, is amended by adding the following new paragraph after paragraph (2): . . .

Sec. 3. The amendments made by this Act shall take effect on the first day of the first pay period which begins on or after the thirtieth day after the date of enactment of this Act.

THE SPEAKER: Is a second demanded?

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, at the proper time I ask to be recognized to make a point of order against consideration of this bill.

THE SPEAKER: The Chair will state that if the gentleman proposes to make a point of order, this is the time to make it.

MR. GROSS: Mr. Speaker, I make a point of order against the consideration of the bill (H.R. 19136) on the ground that it violates rule XI, clause 26(e),(1) in that it was reported from the committee without a quorum being present.

THE SPEAKER: The Chair will state that the motion to suspend the rules suspends all rules, including the rule mentioned by the gentleman from Iowa.

§ 17.23 Where a bill is being considered under suspension of the rules, a point of order will not lie against the bill on the ground that a quorum was not present when the bill was reported from committee.

On Oct. 7, 1968,(2) Speaker John W. McCormack, of Massachusetts, ruled on the point of no

---

16. 114 CONG. REC. 27029, 27030, 90th Cong. 2d Sess.

1. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).
2. 114 CONG. REC. 29764, 90th Cong. 2d Sess.

quorum under a suspension of the rules procedure.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, relating to our program for today, a number of bills are slated to be considered under suspension of rules in the House. There are four bills from the Committee on Post Office and Civil Service which, from evidence I have, were reported in violation of rule XI, clause 26(e) which states:

> (e) No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.[3]

The evidence I have is that H.R. 17954 and H.R. 7406 were ordered reported from the Committee on Post Office and Civil Service in executive session on August 2, 1968, without a quorum present.

Additional evidence reveals that S. 1507 and S. 1190 were ordered reported from the Committee on Post Office and Civil Service in executive session on September 3, 1968, without a quorum present. I further cite from Jefferson's Manual, section 408:

> A bill improperly reported is not entitled to its place on the calendar; but the validity of a report may not be questioned after the House has voted to consider it, or after actual consideration has begun.

Mr. Speaker, I submit that the bills S. 1507, S. 1190, H.R. 17954, and H.R. 7406 all were improperly reported. Mr. Speaker, my parliamentary inquiry is this: At what point in the proceedings would it be in order to raise the question against these bills as being in violation of rule XI, clause 26(e) inasmuch as they are scheduled to be considered under suspension of the rules, which would obviously suspend the rule I have cited?

Mr. Speaker, I ask the guidance of the Chair in lodging my point of order against these listed bills so that my objection may be fairly considered, and so that my right to object will be protected. Mr. Speaker, I intend to do so only because orderly procedure must be based on compliance with the rules of the House which we have adopted.

The Speaker: The Chair will state that any point of order would have to be made when the bill is called up.

The Chair might also advise or convey the suggestion to the gentleman from Missouri that the bills will be considered under suspension of the rules, and that means suspension of all rules.

Mr. Hall: Mr. Speaker, a further parliamentary inquiry. Would it not be in order, prior to the House going into the Consent Calendar or suspension of the rules, to lodge the point of order against the bills at this time?

The Speaker: The point of order could be directed against such consideration when the bills are called up under the general rules of the House. The rules we are operating under today as far as these bills are concerned concerns suspension of the rules, and that motion will suspend all rules.

Mr. Hall: Mr. Speaker, if I may inquire further, is it not true that, until such time as we go into that period of suspension of the rules, a point of order would logically lie against such bills which violate the prerogatives of the House and of the individual Members thereof, to say nothing of the committee rules? My belief that a point of order should be sustained is based on improper committee procedure and addresses itself to the fact that the bills are improperly scheduled, listed, or programed on the calendar, or rule of suspension, and so forth.

---

[3] See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

The Speaker: The Chair will state, as to points of order, at the time the Chair answered the specific inquiry of the gentleman from Missouri, a point of order would not lie until the bill is reached and brought up for [consideration].

Mr. Hall: Mr. Speaker, may I be recognized at that time to lodge such a point of order, and will this Member be protected?

The Speaker: The Chair will always protect the rights of any Member. The Chair has frankly conveyed to the gentleman that we are operating under a suspension of the rules procedure today, and that suspends all rules.

Mr. [Leslie C.] Arends [of Illinois]: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Arends: Do I correctly understand the ruling of the Chair that suspending all the rules pertains to more than just the House; it pertains to the rules of committee action likewise?

The Speaker: The gentleman from Illinois is correct.

Mr. Arends: I thank the Speaker.

Parliamentarian's Note: Two of the bills which were allegedly reported in the absence of a quorum, H.R. 17954 and H.R. 7406, were scheduled for consideration on both the Consent Calendar and under suspension of the rules. In his response to the inquiry of Mr. Hall, the Speaker discussed the validity of a point of order only in relation to the suspension of the rules procedure. He did not foreclose the making of a point of order against a bill on the Consent Calendar. However, the two bills which might have been vulnerable when called on the Consent Calendar were passed over without prejudice, by unanimous consent.

None of the bills challenged by Mr. Hall were in fact considered on this date. When it became apparent to the leadership that the proceedings would be delayed by repeated points of no quorum, the Speaker informally advised Members that the four bills would not be called up under suspension. On Oct. 11, S. 1507 was recommitted when a point of order was sustained against its consideration on the ground that it was reported in the absence of a quorum. (See 114 Cong. Rec. 30751, 90th Cong. 2d Sess.) A bill similar to H.R. 17954 was called up on Oct. 11 (S. 4120), considered, and passed by unanimous consent. (See 114 CONG. REC. 30752, 90th Cong. 2d Sess.)

Rule Waiving Quorum Requirement

§ 17.24 The House rejected a resolution reported from the Committee on Rules, providing for an "open" rule but including a waiver of Rule XI clause 27(e),(4) which requires that a majority of a committee be actually present when a measure is reported from committee, to permit consideration of a bill improperly voted on and reported by the Committee on Post Office and Civil Service.

On July 23, 1973,(5) the House defeated a resolution to waive the rule which requires presence of a quorum when a committee reports a bill.

MR. [CLAUDE D.] PEPPER [of Florida]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 495 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 495

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(e), rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8929) to amend title 39, United States Code, with respect to the financing of the cost of mailing certain matter free of postage. . . .

MR. PEPPER: Mr. Speaker, House Resolution 495 provides for an open rule with 2 hours of general debate on H.R. 8929, a bill to provide relief from postal rate increases for certain mailers.

House Resolution 495 provides that the provisions of clause 27(e), rule XI of the Rules of the House of Representatives are waived.

I will state to my able friend from Iowa, whose inquiry I anticipate, if I may, that the occasion for this request for a waiver by the Rules Committee is this: The committee had before it H.R. 7554. The committee, on the 21st of June, I believe it was, voted, with a quorum present, by a record vote of 33 to 10, to report out the committee bill, H.R. 7554, with amendments. The bill and the amendments were voted favorably by the committee. . . .

I am sorry. It was 13 to 10. I understand that there are 25 members of the committee, and 23 voted, and the vote to report out the bill was 13 to 10.

The committee voted to report out a clean bill, which would embody H.R. 7554 and the amendments in a single clean bill.

On the day following that meeting of the committee there was introduced a clean bill, embodying exactly H.R. 7554 plus the amendments that had been voted upon favorably by the committee. There was not a subsequent meeting of the committee upon the clean bill. But

---

4. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).
5. 119 CONG. REC. 25476–79, 25482, 93d Cong. 1st Sess.

the clean bill embodying what was voted upon exactly by the committee, as H.R. 8929, was reported out and presented to the Rules Committee. The situation was reported to the Rules Committee, and the Rules Committee voted to recommend consideration of the bill to the House, but recommended that there be a waiver of points of order so that any technicality which might arise out of that situation would be cured by the waiver of the rule, if the House adopted the waiver of the rule. . . .

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, I thank the gentleman for yielding.

I believe one slight correction should be made. A clean bill was introduced 2 days after the committee voted on the proposition, and I would have to differ again with the gentleman in his statement that this is an open rule. It is not an open rule since it waives a point of order.

Mr. Pepper: Mr. Speaker, it is an open rule.

Mr. Gross: The Committee on Rules in effect is doing the homework for the Committee on Post Office and Civil Service in that they did not abide by the rules of the House and vote on a clean bill . . .

Mr. Del [M.] Clawson [of California]: Mr. Speaker, House Resolution 495 provides a rule with 2 hours of general debate for the consideration of H.R. 8929, Educational and Cultural Postal Amendments. The rule also includes a waiver of clause 27(e) of rule XI. This rule requires the presence of a quorum when a bill is reported. In this case the committee, with a quorum present, agreed to report a clean bill, but never actually held a meeting officially reporting out the clean bill. Therefore, the waiver is necessary in order to prevent a point of order against consideration of the bill. . . .

I would suggest to the Members that regardless of their views on this bill itself that this is the kind of precedent we should not be setting and it makes for bad legislation. I think the rule should be defeated and we should let the committee produce a proper vehicle for final consideration and then we will not have any argument about the need for a protected rule. . . .

Mr. [Delbert L.] Latta [of Ohio]: Mr. Speaker, anyone who has read the committee report is probably wondering how this bill ever got to the place where it is today. Let me say that the vote in the Post Office and Civil Service Committee was a close 13 to 10, and in the Rules Committee it was 7 to 5. I might hastily add I was one of the five who voted not to report this bill. . . .

Mr. Pepper: . . . Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The Speaker Pro Tempore:[6] The question is on the resolution.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. [James M.] Hanley [of New York]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 188, nays

---

[6] John J. McFall (Calif.).

202, not voting 51, as follows: . . .

So the resolution was rejected.

Senate Precedent

§ 17.25 A point of order against a report on a bill was sustained on the ground that a quorum was not present at the time the Senate committee voted to report the measure; the Presiding Officer ruled that the bill was therefore still in the custody of the committee and had not been reported to the Senate.

On July 31, 1963,(7) a bill was not considered on the floor because of the absence of a quorum in the committee.

> The Senate resumed the consideration of the bill (S. 1703) to amend title V of the Agricultural Act of 1949, as amended, and for other purposes. . . .
>
> Mr. [William] Proxmire [of Wisconsin]: Mr. President, will the Senator from Florida yield for the purpose of my making a point of order?
>
> Mr. [Spessard L.] Holland [of Florida]: I yield to the distinguished Senator from Wisconsin so that he may make a point of order.
>
> Mr. Proxmire: Mr. President, I make a point of order that the bill which is now under consideration is not properly before the Senate because, at the time the vote to report the bill was taken in committee, a quorum was not actually present. I have checked this with the clerk of the committee, and it is my understanding that only six Senators answered to their names. . . .
>
> Mr. President, I ask for a ruling.
>
> The Presiding Officer:(8) The Chair must inquire of the chairman of the committee as to what the facts are. The Chair is not conversant with the facts, and must depend on the chairman of the committee. . . .
>
> Will the chairman of the committee inform the Chair specifically whether a quorum was present at the time the vote was taken on S. 1703?
>
> Mr. [Allen J.] Ellender [of Louisiana]: At the time?
>
> The Presiding Officer: At the time.
>
> Mr. Ellender: By proxies, yes; but not actually.
>
> Mr. [Clair] Engle [of California]: Mr. President, will the Senator yield?
>
> Mr. Ellender: I yield.
>
> Mr. Engle: The committee record shows that a quorum was present. Is that correct?
>
> Mr. Ellender: That is correct.
>
> Mr. Engle: No point of no quorum was made at the time the bill was reported.
>
> Mr. Ellender: That is correct.
>
> Mr. Engle: The record shows that a quorum was present, and no point of order was made at that particular time, and members drifted in and out. Is that correct? . . .
>
> The Presiding Officer: Does the Senator from Wisconsin press his point of order?

---

7. 109 Cong. Rec. 13791, 13792, 88th Cong. 1st Sess.

8. Claiborne Pell (R.I.).

MR. PROXMIRE: Yes; I press my point of order. I wish further to point out that it has now been disclosed and stipulated and agreed upon by the chairman of the committee that a quorum was not present at the time the vote on the bill was taken. It is true that a quorum was present earlier. It is true that a substantive majority was present earlier, but at the time the vote was taken no physical quorum was present in the committee room to vote.

MR. ELLENDER: The records of the committee show that a quorum was present at the meeting.

THE PRESIDING OFFICER: By proxy?

MR. ELLENDER: A quorum was present at the time the meeting began, when the question of a quorum arose.

THE PRESIDING OFFICER: Was a quorum present at the time the vote was taken on S. 1703?

MR. ELLENDER: No.

THE PRESIDING OFFICER: In view of the point of order that has been made, and the rule which necessitates that a ruling be made, the Chair rules that under section 133(d) of the Legislative Reorganization Act of 1946,(9) which operates as a rule of the Senate, and provides that: "No measure or recommendation shall be reported from any such committee unless a majority of the committee were actually present," the Chair sustains the point of order.

If the Committee on Agriculture and Forestry reported the bill (S. 1703) in question without a majority of the members being actually present, the action of the committee in ordering the bill to be reported to the Senate was in contravention of the above section of the Legislative Reorganization Act, and therefore such action was without authority and void.

Being "actually present" means the member would have had to be present in committee, and a poll does not present a compliance with the rule.

MR. HOLLAND: Mr. President, a parliamentary inquiry.

THE PRESIDING OFFICER: The Senator from Florida will state it.

MR. HOLLAND: What is the status of the bill following the ruling of the distinguished Presiding Officer?

THE PRESIDING OFFICER: The status of the bill is that legally it has never left the committee.

MR. HOLLAND: The status of the bill is that it is still in the custody of the committee?

THE PRESIDING OFFICER: It is in the custody of the committee.

§ 18. Withdrawal or Withholding of Objections or Points of No Quorum

When a point of no quorum is made, no "business"(10) is in order.

---

9. This section appears in 2 USC § 190a (d), and Rule XXV clause 5(a), *Senate Manual* § 25.5 (1973).

10. "Business" is a term of art which does not encompass all parliamentary proceedings. For example, the prayer, administration of the oath to a Member, receipt of messages from the President and Senate, motions incidental to a call of the House, and the

The point may be withdrawn(11) or withheld(12) until announcement of absence of a quorum, after which the point may not be withdrawn even by unanimous consent.(13)

In General

§ 18.1 Withdrawal of a point of no quorum does not require unanimous consent.

On Nov. 15, 1967,(14) during consideration of S. 2388, the Economic Opportunity Amendments of 1967, Chairman John J. Rooney, of New York, commented on an objection to withdrawal of a point of no quorum.

> Mr. [Sam M.] Gibbons [of Florida]: Mr. Chairman, I make the point of order that a quorum is not present.
>
> The Chairman: The Chair will count.
>
> Mr. Gibbons: Mr. Chairman, I withdraw the point of order.
>
> Mr. [H. R.] Gross [of Iowa]: Mr. Chairman, I object.
>
> The Chairman: Withdrawal of a point of order does not require unanimous consent; so the point of order is withdrawn.

§ 18.2 Where objection is made to a vote on the ground that a quorum is not present and, pursuant to a special order, the Speaker declares that further proceedings will be put over until the following day, it is too late for another Member to demand tellers on the question, even though the point of no quorum is subsequently withdrawn.

On May 4, 1966,(15) during consideration of H.R. 14745, the appropriations bill for the Department of Health, Education, and Welfare and the Department of Labor for fiscal year 1967, Speaker John W. McCormack, of Massachusetts, ruled on the timeliness of a demand for tellers after postponing consideration.

Consequences of Withdrawal

§ 18.3 Where a point of no quorum is made and withdrawn immediately after a division vote, it is then not too late to demand a teller vote on the pending proposition.

---

motion to adjourn, which do not require a quorum, are in order after a point of no quorum. See § 10, supra, for a discussion of the definition of business. See also Rule XV clause 6, *House Rules and Manual* § 774c (1979).

§§ 18.5, 18.6, infra.

§§ 18.10, 18.11 infra.

§§ 18.7–18.9, infra.

113 Cong Rec. 32662, 90th Cong. 1st Sess.

15. For the proceedings of this date, see § 13.5, supra.

On Mar. 8, 1946,(16) during consideration of H.R. 5605, the agricultural appropriation bill for 1947, Chairman William M. Whittington, of Mississippi, ordered tellers.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Massachusetts [Mr. Heselton].

The question was taken; and on a division (demanded by Mr. Heselton) there were ayes 42, noes 28.

MR. [REID F.] MURRAY of Wisconsin: Mr. Chairman, I make a point of order a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. MURRAY of Wisconsin: Mr. Chairman, I withdraw my point of no quorum.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MAHON: Mr. Chairman, is it too late to ask for tellers on this vote?

THE CHAIRMAN: No; it is not too late to ask for tellers.

MR. MAHON: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the chairman appointed as tellers Mr. Mahon and Mr. Heselton.

The committee again divided; and the tellers reported that there were—ayes 30, noes 48.

So the amendment was rejected.

§ 18.4 Objection to a voice vote for lack of a quorum having been withdrawn and demand then being made for a division, an objection to the division vote for lack of a quorum is in order and, if a quorum is not present, the roll call is automatic.

On Feb. 5, 1957,(17) Speaker Sam Rayburn, of Texas, entertained an objection to a division vote.

THE SPEAKER: The Clerk will report the amendment on which a separate vote is demanded.

The Clerk read as follows:

> Amendment offered by Mr. Lanham: Page 5, line 7, after "$275,000,000", strike out the colon and insert "*Provided,* That not more than $15,728,000 of this amount may be used for State and local administration."

MRS. [EDITH S.] GREEN of Oregon: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

THE SPEAKER: The question is on the amendment.

The question was taken and the Speaker announced that the "ayes" had it.

MRS. GREEN of Oregon: Mr. Speaker, I object to the vote on the ground a quorum is not present.

THE SPEAKER: The Chair will count.

MRS. GREEN of Oregon: Mr. Speaker, I withdraw the point of order and ask for a division.

---

16. 92 CONG. REC. 2084, 79th Cong. 2d Sess.

17. 103 CONG. REC. 1553, 85th Cong. 1st Sess.

The question was taken; and on a division (demanded by Mrs. Green of Oregon) there were—ayes 118, noes 46.

Mrs. Green of Oregon: Mr. Speaker, I object to the vote on the ground that a quorum is not present, and I make the point of order that a quorum is not present.

Mr. H. Carl Andersen [of Minnesota]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. H. Carl Andersen: The point of order is that that request has already been made in reference to this vote, and the gentlewoman withdrew it.

The Speaker: The objection to the voice vote on the grounds that a quorum was not present was withdrawn. The objection to the vote by division, on the grounds that a quorum is not present, is in order.

Evidently a quorum is not present.

When Withdrawal Is Permitted

§ 18.5 A point of order that a quorum is not present may be withdrawn, providing the absence of a quorum has not been announced by the Chair; such withdrawal does not require unanimous consent.

On Apr. 11, 1962,[1] Speaker pro tempore W. Homer Thornberry, of Texas, ruled on whether unanimous consent is required for withdrawal.

Mr. [James B.] Utt [of California]: I have yielded once to the gentleman from Ohio already.

Mr. [Wayne L.] Hays [of Ohio]: Well, I make the point of order that a quorum is not present.

The Speaker Pro Tempore: The Chair will count.

Mr. Hays: Mr. Speaker, out of deference to the Speaker, whom I have known for 14 years as the majority leader previously, I will withdraw the point of order. But I will say I will make another one, if necessary.

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: Does the gentleman from California [Mr. Utt] yield to the gentleman from Iowa [Mr. Gross] for a parliamentary inquiry?

Mr. Utt: Mr. Speaker, I yield to the gentleman from Iowa for the purpose of making a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Gross: Mr. Speaker, does it require unanimous consent to withdraw a request for a quorum call?

The Speaker Pro Tempore: It does not, the Chair will state to the gentleman from Iowa.

§ 18.6 In the Committee of the Whole, a point of order that a quorum is not present may be withdrawn before the absence of a quorum is ascertained, and unanimous consent is not required.

On Sept. 4, 1969,[2] during consideration of H.R. 12085, extending the Clean Air Act, a point of no quorum was withdrawn.

---

[1] 108 Cong. Rec. 6379, 6380, 87th Cong. 2d Sess.

[2] 115 Cong. Rec. 24372, 24373, 91st Cong. 1st Sess.

(By unanimous consent, Mr. Koch was allowed to speak out of order.)

MR. [EDWARD I.] KOCH [of New York]: Mr. Chairman, I believe that the speaker who just spoke——

MR. [CHARLES E.] CHAMBERLAIN [of Michigan]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:(3) The Chair will count.

MR. CHAMBERLAIN (during the counting): Mr. Chairman, I withdraw my point of order.

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: Mr. Chairman, a parliamentary inquiry.

Would it not be necessary under the rules of the House for the gentleman to ask unanimous consent to withdraw his point of order?

THE CHAIRMAN: The point of order can be withdrawn without the consent of the Committee of the Whole unanimously.

The gentleman from New York is recognized.

When Withdrawal Is Not Permitted

§ 18.7 Where the Chair after counting announces that a quorum is not present, a Member may not, even by unanimous consent, withdraw his point of no quorum, to permit the House to continue with its business without having first obtained a quorum.

On Dec. 18, 1937,(4) Speaker William B. Bankhead, of Alabama, ruled on the procedure after announcement of absence of a quorum.

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Speaker, I suggest the absence of a quorum.

THE SPEAKER: The gentleman from Michigan makes the point of order that there is not a quorum present. The Chair will count. [After counting.] One hundred and fifty-six Members are present, not a quorum.

MR. RABAUT: Mr. Speaker, I will withdraw the motion.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, a point of order. The Speaker has announced that a quorum is not present. The gentleman from Michigan cannot withdraw the point of order. The Speaker has announced that there is no quorum present. Business cannot be conducted after the Speaker has announced there is no quorum present.

THE SPEAKER: The Chair will hold that a point of order having been made that there was no quorum present, and the Chair having counted and announced that there was no quorum present, a constitutional question is raised. No quorum is present, as was announced by the Chair.

MR. [HENRY B.] STEAGALL [of Alabama]: Mr. Speaker, I move a call of the House.

---

(3) Cornelius E. Gallagher (N.J.).

(4) 82 CONG. REC. 1846, 75th Cong. 2d Sess.

A call of the House was ordered.

Parliamentarian's Note: A unanimous-consent request is business of the House, which cannot be conducted in the proven absence of a quorum.

§ 18.8 In the House, the absence of a quorum being announced, it is too late to withdraw a point of order that there is no quorum present.

On May 23, 1939,(5) Speaker William B. Bankhead, of Alabama, ruled on the timeliness of a withdrawal of a point of no quorum.

Mr. [Edward E.] Cox [of Georgia]: Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. Woodrum].

Mr. [Charles R.] Clason [of Massachusetts]: Mr. Speaker, I make the point or order there is not a quorum present.

The Speaker: The gentleman from Massachusetts makes the point of order that there is no quorum present. The Chair will count. [After counting.] Two hundred and thirteen Members are present, not a quorum.

Mr. Clason and Mr. [Clifton A.] Woodrum of Virginia rose.

Mr. Clason: Mr. Speaker, I withdraw the point of order in view of the large number that are present.

The Speaker: Under the circumstances, the Chair is not authorized to recognize the gentleman inasmuch as the Chair had already announced no quorum present. A constitutional question is raised.

§ 18.9 In the Committee of the Whole, it is too late to withdraw a point of no quorum after the Chair has counted and announced that a quorum is not present.

On Mar. 24, 1948,(6) Chairman Francis H. Case, of South Dakota, responded to an attempt to withdraw a point of no quorum.

The Chairman: The Chair will present that question to the Committee. The question is, Shall the gentleman be permitted to proceed with the reading of the letter?

The question was taken, and the Chair announced that the motion was agreed to.

Mr. [Vito] Marcantonio [of New York]: Mr. Chairman, I make the point of order that a quorum is not present.

The Chairman: The Chair will count. [After counting.] Seventy-seven Members are present, not a quorum.

Mr. Marcantonio: Mr. Chairman, I withdraw the point of order. I just want to show that courtesy can be extended in this House.

The Chairman: The Chair has already announced the count.

The Clerk will call the roll.

---

5. 84 Cong. Rec. 6004, 76th Cong. 1st Sess.

6. 94 Cong. Rec. 3436, 80th Cong. 2d Sess.

Withholding

§ 18.10 A point of no quorum may not be reserved (withheld) after the Chair has announced that a quorum is not present.

On Mar. 14, 1938,(7) Speaker William B. Bankhead, of Alabama, ruled on the timeliness of withholding a point of no quorum.

> MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I make the point of order that a quorum is not present.
>
> THE SPEAKER: Evidently there is not a quorum present.
>
> MR. RAYBURN: Mr. Speaker, I withhold the point of order for the moment, as I understand there are some Members who wish to extend their remarks. I must announce, however, that for today I shall feel called upon to object to anyone having any time before going into the Committee of the Whole.
>
> THE SPEAKER: The Chair is reluctantly obliged to hold, having announced that there was no quorum present, that the point of order may not be withheld. It raises a constitutional question. The rule will have to be observed.
>
> MR. RAYBURN: Mr. Speaker, I move a call of the House.
>
> A call of the House was ordered.

§ 18.11 A point of no quorum may not be withheld after the absence of a quorum has been announced by the Chair; and no business is in order until a quorum is established.

On Sept. 7, 1959,(8) Speaker Sam Rayburn, of Texas, did not permit a point of no quorum to be withheld.

> MR. [ARMISTEAD I.] SELDEN [Jr., of Alabama]: Mr. Speaker, I ask unanimous consent that it may be in order to consider under the general rules of the House the bill (H.R. 9069) to provide standards for the issuance of passports, and for other purposes; that general debate continue for not to exceed 1 hour, one-half to be controlled by myself and one-half controlled by the ranking minority member of the Committee on Foreign Affairs.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Alabama?
>
> There was no objection. . . .
>
> MR. [CHARLES O.] PORTER [of Oregon]: Mr. Speaker, I make the point of order that a quorum is not present.
>
> THE SPEAKER: Evidently a quorum is not present.
>
> MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, will the gentleman withhold his point of order until a consent request can be acted upon?
>
> THE SPEAKER: It is too late to do anything. He held the floor and the Chair declared that a quorum was not present. The only thing that can take place now is a call of the House.
>
> MR. MCCORMACK: Mr. Speaker, I move a call of the House.
>
> A call of the House was ordered.

---

7. 83 CONG. REC. 3319, 75th Cong. 3d Sess.

8. 105 CONG. REC. 18442, 18443, 86th Cong. 1st Sess.